ocal Government Funding
and Structure Committee



# SIMPLIFICATION *In the* 21ST CENTURY

Findings and Recommendations ■ December 2000

*"The collection and distribution system for these taxes and fees will be simple, efficient, accurate, and timely."*

Committee Authorized by the 1999 Legislature (SB184)

# Table of Contents

*The Local Government Funding*
*and Structure Committee*

# *SIMPLIFICATION*

*In the*

*21ST CENTURY*

Committee Authorized by the 1999 Legislature

DATE: December 7, 2000

TO: Governor Racicot
Representative John Mercer, Speaker of the House
Representative Emily Swanson, Minority Leader
Senator Bruce Crippen, President of the Senate
Senator Steve Doherty, Minority Leader

FROM: Representative Bob Story, Chairman
Harold Blattie, Vice Chairman

SUBJECT: Final Local Government Funding and Structure Committee Report

We forward the following report from the Local Government Funding and Structure Committee established by Senate Bill 184 of the 1999 Legislature. The need for the committee was based on the prospect of an annual $55 million property tax increase for local government and school budgets, which could occur if the SB184 reimbursements were allowed to sunset June 30, 2001, and the changes required to move all Montana governments toward the following SB184 vision.

> *We are dedicated to a partnership among state, county, city and school districts that is based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a revenue system that is simple, understandable, equitable, stable and adequate and through a revenue collections and distribution system that is simple, efficient, accurate and timely.*

All governments and citizens deserve a revenue system that produces adequate and relatively constant revenue, treats individuals and businesses fairly, is easy for taxpayers to understand, minimizes administrative costs and has all economic activity and wealth contributing proportionally to support government service. A high quality revenue system is composed of taxes that complement one another and the finances of both state and local governments. One especially important issue is the relationship of state and local taxing jurisdictions. State policy

makers should consider how state tax decisions affect local governments, and local governments should consider how their budget decisions affect the taxpayer and the state revenue system. A high quality revenue system reflects the limitations and financial responsibilities state government places upon local government. State policy makers should be explicitly aware of the costs state mandates impose on local governments. Local government should have the authority to raise sufficient revenue to meet its obligations.

In working towards the vision and the concerns expressed, the committee established three primary goals.

1. Simplify billing, collection, accounting, distribution and reporting of all revenue

2. De-earmark revenue and eliminate expenditure mandates for local government

3. Create a rational, dependable, stable funding structure for cities and counties

Because the current Montana financial relationship among state, local and school finances is so complex and administratively cumbersome, the committee proposals require significant change from state agencies, counties, cities and schools. However, other than simplifying, de-earmarking, and removing limitations on local government, there is no intent to change the funding level or programs offered by any government entity. Due to de-earmarking, government entities may have more open revenue and budget reviews by the legislature and city and county commissioners.

A significant impact of the committee proposals is the trust that both state and local government officials must establish between themselves. The legislature will have less control over local government, and local government will have the right to receive an Entitlement Share of the general fund without specific revenue or expenditure requirements. Building this trust level will be a challenge. To expedite the trust building, local government audit provisions have been strengthened and local government financial laws have been revised to allow significantly more local financial flexibility and authority. The county and city treasurers become even more important to the local government officials. Their acceptance of the responsibility to account for all funds and establish accounting systems is very important to the trust building among all the state and local government entities. As the state gives more autonomy to local government, the county clerk and recorders, in their function as budgeting and accounting personnel, will make a major contribution in strengthening and demonstrating the local government accountability requirements.

The charge given to the committee was broad and comprehensive. We have done our best to address the most significant changes to begin building a real partnership and respectful working relationship among all government entities.

We would like to thank the many individuals who assisted the committee. The county treasurers, county clerk and recorders, county commissioners, city treasurers and city managers were extremely helpful. The Montana League of Cities and Towns and Montana Association of Counties attended every meeting and provided valuable insight. State agencies attended the meetings and assisted with committee requests. Four agencies provided the core of the research and analysis, the Office of Budget and Program Planning, the Legislative Fiscal Division, the Office of Public Instruction and the Department of Revenue. Many more individuals, too numerous to list, assisted the committee. The committee members could not have completed the work without everyone's help.

We would like to thank you for the opportunity to serve our state in this capacity. It has been a comprehensive task, which has enhanced our knowledge of Montana government operations and brought a great appreciation of the dedication that Montana public officials and staff have to public service.

We request your serious consideration of the proposals and your assistance in advancing these recommendations in the Montana Legislature.

# Local Government Funding and Structure Committee
# Committee Members

Representative Robert Story, Chairman
133 Valley Creek Road
Park City MT 59063
Phone #: (406) 633-2746

Harold Blattie, Commissioner, Vice Chairman
Stillwater County
PO Box 970
Columbus MT 59019-0970
Phone #: (406) 322-8010
Email: commission@co.stillwater.mt.us

Senator Linda Nelson
469 Griffin Road
Medicine Lake MT 59247
Fax & Phone #: (406) 286-5611
Email: lnelson@nemontel.net

Representative Mary Anne Guggenheim
7575 Priest Pass Road
Helena MT 59601
Phone #: (406) 443-5006
Email: sweenycrik@aol.com

Senator Lorents Grosfield
HC 87
Box 2145
Big Timber MT 59011
Phone #: (406) 537-4489
Email: lorents@mcn.net

Patricia Cook
Lake County Treasurer
106 4th Ave. East
Polson MT 59860
Phone #: (406) 883-7221
Email: pat.treasurer@lakecounty-mt.org

Susan Nicosia, City Councilman
PO Box 2241
Columbia Falls MT 59912
Phone #: (406) 892-5149
Email: nicosia@digisys.net

Mary Bryson, Director
Department of Revenue
PO Box 5805
Helena MT 59620-5805
Phone #: (406) 444-1900
Email: mbryson@state.mt.us

John Lawton, City Manager
City of Great Falls
PO Box 5021
Great Falls MT 59403
Phone #: (406)771-1180
Email: jlawton@ci.great-falls.mt.us

Sue Olson, Commissioner
Musselshell County
1230 Fattig Creek Road
Roundup MT 59072-2498
Phone #: (406)323-1104
Email: sueolson@midrivers.com

## *SIMPLIFICATION IN THE 21ST CENTURY*
## EXECUTIVE SUMMARY
Local Government Funding and Structure Committee Report

With the passage of SB184, the 1999 Legislature established the Local Government Funding and Structure Committee. The need for the committee was based on the prospect of an annual $55 million property tax increase for local government and school budgets which could occur if the SB184 reimbursements were allowed to sunset June 30, 2001 and, the changes required to move all Montana governments toward the following SB184 vision.

> *We are dedicated to a partnership among state, county, city and school districts that is based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a revenue system that is simple, understandable, equitable, stable and adequate and through a revenue collection and distribution system that is simple, efficient, accurate and timely.*

In working to prevent the potential for property tax increase and achieve this vision, the committee established three primary goals:

1. Simplify billing, collection, accounting, distribution and reporting of all revenue.
2. De-earmark revenue and eliminate expenditure mandates for local government.
3. Create a rational, dependable, stable funding structure for cities and counties.

A significant goal of the committee proposal is to establish a mutual trust that both state and local government officials will need. The recommendations provide local government significantly more financial flexibility and authority. The legislature will have less control over local government. Local government will receive an Entitlement Share of the general fund without specific revenue or expenditure requirements. Building this trust level will be a challenge. To expedite trust building, local government audit provisions have been strengthened and local government financial laws have been revised to provide greater accountability with more financial flexibility and authority.

The committee is concluding its work and preparing its final report. The following summarizes the committee's major recommendations.

### Budget and Accounting

Due to the wide variety and disparity in budget and accounting laws for local governments, the committee established a work group to develop legislation to provide a single set of uniform budget and accounting laws for local government. The draft legislation:

- Simplifies the accounting requirements and expands local financial flexibility and authority.
- Gives county and city commissions clear financial oversight and authority for mill levies and fees.
- Expands and strengthens the Department of Commerce's reporting and audit responsibilities.
- Has an all-inclusive definition of "local governments."
- Eliminates detailed accounting provisions in statute.
- Specifically states that it "... does **not** provide for the consolidation or reassignment of any duties of elected county officials."
- Provides for the county or municipal treasurers to be the custodians of all public monies, including those of special authorities and districts.
- Creates budget adjustment flexibility for some fund types and fee-based budgets.
- Allows for judgment levies to be outside the property tax limit.
- Provides all mill levies are subject to county or municipal governing board, omitting the past exception for special districts, such as library and airport mill levies.
- Provides for an extended deadline for setting tax levies if certified taxable values are received late.
- Provides for the amendment or repeal of over 80 existing county and municipal laws.

### Revenue Changes

- Changes the flow of revenue so that most revenue remains with the government that collects it. The exception is vehicle revenue (light vehicle and truck fees and taxes) that will be transferred to the state general fund. Gambling revenue will be retained by the state. Other changes include the elimination of the property tax reimbursement programs, consolidating the vehicle registration fees into one registration fee, making other vehicle fees uniform, and having all district court fees, fines and forfeitures deposited into the state general fund.
- Provides general fund statutory appropriations to replace the de-earmarked revenue for state agencies.
- Redistributes the de-earmarked revenue to schools through a two-year reimbursement program, similar to that provided in SB184.

### Expenditure Changes

- Transfers total funding responsibility for welfare to the state.
- Transfers the funding responsibility for district courts excluding the clerk of district court and their staffs, to the state.

## Entitlement Share

Creates general fund Entitlement Share (statutory appropriation from the state general fund) to ensure that local governments receive the same amount of revenue they received in fiscal 2001 with vehicle fees altered to reflect HB540.

- Sets the growth rate indices for the Entitlement Share pool at 70% of the five-year rolling average of the state gross domestic product and personal income. The growth rate is 3.2% for fiscal 2002, and 3.1% for fiscal 2003.
- Establishes a short-term allocation methodology for the Entitlement Share based on first, increasing the base allocation for each county and city by inflation and second, by distributing any remaining funds based on population.
- Establishes a study to develop a long-term funding allocation method for the Entitlement Share program for local government that takes into account tax capacity, tax burden, and the wide disparity in mills levied under current law.

## Property Tax Limit

The SB184 property tax limit remains in place as an overall property tax limit. Existing local government mill levy caps have been eliminated except for the 2-mill emergency levy. The committee recommendation modifies the SB184 property tax limit as follows:

- Provides a transitional limit for fiscal 2002 to provide at least 2% revenue growth above fiscal 2001 from the Entitlement Share and property tax.
- Establishes a long-term property tax limit, which will be the fiscal 2002 amount of property tax assessed, plus a growth factor of ½ of the last three-year average rate of inflation.
- Preserves the right of local governments to use the full property tax limit in the future without utilizing it every year.
- Clarifies and improves the definition of "Newly Taxable Property".

## De-earmarking and Mandate Guidelines

- Establishes guidelines for earmarking revenue to local government and a process to continuously review the earmarked revenue.
- Clarifies the process of establishing and funding state mandates for local governments.

## Local Option Taxes

- Authorizes a local option sales tax not to exceed 4%. A vote of the electorate is required and there is some revenue sharing between urban and rural counties.
- Authorizes up to a 1% local option realty transfer tax for infrastructure, with 20% being in a state operated program and 80% staying in the local community. A vote of the electorate is required.

**State and Local Government Relationship Committee**

Creates a temporary (four years) State and Local Government Relationship Committee, composed of legislators and local government officials to:

- Promote and strengthen local governments.
- Bring together representatives of state and local government for consideration of common problems.
- Provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation.
- Identify and promote the most desirable allocation of state and local government functions, responsibilities and revenue.
- Promote concise, consistent and uniform laws and regulations for local government to achieve a more orderly and less competitive fiscal and administrative relationship between and among state and local governments.

## Introduction

In August of 1998, the Montana Department of Revenue organized a group known as the Local Government Funding and School Finance Group. The group included representation from the Montana Association of Counties (MACo), Montana League of Cities and Towns, Montana Department of Justice, county commissioners, city managers, mayors, attorneys and school administrators. This group discussed:

- The significant impact tax reform would have on local government and schools.
- The complexity of the financial relationship between state government, local government and school finances, which makes it extremely difficult to change tax policies.
- The revenue collection and distribution mechanisms currently in place, which are cumbersome, difficult, and expensive to administer.
- The current financial structures between local government and state government, which do not meet the universal principles of taxation for a high quality revenue system.
- The dissatisfaction and strained relationships which are caused by the separation of the accountability for managing the district court system being with the judicial branch of government, and the responsibility for funding the district court system being with the executive branch of government.

Group members expressed a multitude of frustrations with the current finance system, as well as the statutory restrictions currently placed on local governments which impede the allocation of funds to local priorities and needs.

The Local Government Funding and School Finance Group created a vision for a complementary funding and distribution relationship among local government, school districts and state government. The group worked toward gaining public support and acceptance of the following vision statement.

> *We are dedicated to a partnership among state, county, city and school districts that is based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a revenue system that is simple, understandable, equitable, stable and adequate, and through a revenue collections and distribution system that is simple, efficient, accurate and timely.*

This vision was born out of a unanimous desire among the participants to improve the state/local relationship; increase the efficiency and accuracy of our financing mechanisms; and create a funding structure capable of meeting Montana citizens' future revenue needs.

**Senate Bill 184**

Through Senate Bill 184, the 1999 Legislature established two study committees to explore concepts and opportunities to create a complementary funding relationship between state and local governments, including district courts. Representatives to the committees were appointed to provide a balance and depth of knowledge, experience and insight.

These committees authorized in Senate Bill 184 provided a structure:

- To achieve the vision created by the Local Government Funding and School Finance Group.
- To enable all governments to respond to the demands of their citizens in the 21st century.
- To create a complementary funding relationship between local and state governments and district courts.
- To create an understandable, adequate and efficient revenue and distribution system.
- To give a thorough review to the many complex laws in place to benefit all governments in the funding and distribution process, including the courts. They would accomplish this by exploring and ultimately recommending a complementary funding structure capable of providing stable and reliable revenue streams to local government.

One committee, the Local Government Funding and Structure Committee, was established to study local government funding. The study committee has focused on lifting local governments financial restrictions and de-earmarking financial revenue to local governments. This financial autonomy is a desirable attribute in the partnership among the state, counties, cities, and school districts that will serve to build mutual trust.

The other committee, the Court Funding and Structure Committee, was established to study district court funding. The study committee has worked on bringing the responsibility for funding and operating the court system into one governing body.

# Mission and Goals of the Local Government Funding and Structure Committee

This publication is the final report of the Local Government Funding and Structure Committee. The final report is organized into several chapters that explain in detail the committee's specific recommendations.

The primary mission of the Local Government Funding and Structure Committee was to:

- Ascertain the best method of allocating current and future resources, while providing a complementary funding relationship between local government and state government.
- Establish a complementary funding relationship that provides stable and reliable revenue streams to local governments.
- Explore regional concepts, as well as further lifting of local government revenue restrictions and de-earmarking of revenue to local governments.
- Make the complementary funding relationship meet the criteria set forth in the vision statement adopted by the Local Government Funding and School Finance Visioning Group.

The Local Government Funding and Structure Committee met eight times: September 22, 1999; October 19-20, 1999; December 13-14, 1999; February 24-25, 2000; July 10-11, 2000; September 5-6, 2000; October 5-6, 2000 and November 15, 2000.

From these meetings, the committee determined three primary goals.

1. Simplify billing, collection, accounting, distribution and reporting of all revenue.
2. De-earmark revenue and eliminate expenditure mandates for local government.
3. Create a rational, dependable, stable funding structure for cities and counties.

## The Change Imperative

There are three main factors that contribute to the change imperative for the Local Government Funding and Structure Committee's goals. These factors are:

- Difficulties in tracking and providing accountability for county collections.
- Impact of property tax legislation on local government and the proliferation of – and dissatisfaction with – property tax reimbursement programs.
- Recommendations of the Local Government Funding and School Finance Group.

### Tracking and Accountability for County Collections

County collections – the monies transferred between state and local governments – are extremely complex. Almost $300 million in state revenue was made available through county collections in fiscal year 1997. County collections are reported on more than 100 lines of code on the *State of Montana State Treasurer County Collection Report*. A single line of this county collection report can represent as many as 20 sources of revenue. Seventeen state agencies play a role in county collections on either the receiving or the collecting end.

In 1997, a committee was formed with representation from state agencies and the county treasurers to explore the following areas and to make recommendations for improvements in the county collection process. The committee divided the task into the following three areas.

1. The communication process between county treasurers and the state.
2. The need for legislation clarification and simplification.
3. The identification of audit/monitoring responsibilities.

<u>Communication Process</u>

The subcommittee assigned to study the communication process between the county treasurers and the state found many sources of communication.

Following a legislative year, the Department of Commerce presents workshops on legislative changes that affect county treasurers in several sites around the state. Handouts listing the legislative changes are distributed to workshop participants and mailed to others upon request.

Two publications are sent to county treasurers. The Department of Commerce provides the previously mentioned *State of Montana State Treasurer County*

*Collection Report.* The Department of Commerce, in collaboration with the Department of Justice, provides a *Motor Vehicle Tax and Distribution Schedule*. The Department of Justice provides a computer system and training for motor vehicle fees and taxes. When state agencies send revenue to the counties, a cover letter from that state agency is included. The cover letter explains how the revenue is to be distributed.

Once a month county treasurers send in the *State of Montana State Treasurer County Collection Report*. Another report, *Form FP-6b*, is required by statute to be completed by county treasurers once a year and returned to the Office of Public Instruction. This report contains detailed information regarding revenue sources for elementary equalization (33 mills) and high school equalization (22 mills) as well as for county transportation, county elementary retirement, and county high school retirement.

The subcommittee found:

- There seems to be very little inter-agency communication. At the state level inter-agency communication is limited. County collections derive from multiple revenue sources, have complicated distributions, and cross agency lines. When an agency discovers a potential problem (perhaps an improper distribution of funds) they are often unsure which agency or agencies to contact. With so many players, effective communication is difficult. A specific state agency may not even be aware of how a decision it makes regarding county collections impacts another state agency or process.

- There is some satisfaction with the current process. County treasurers, as represented on this subcommittee, are satisfied with their contact with the Department of Commerce and the Department of Administration concerning questions arising at the county level. They are also satisfied with the Department of Justice's computer system which handles motor vehicle receipts. There are problems, however, when local officials (sometimes representing state agencies and sometimes local agencies) provide county treasurers with collections but do not provide identification of the type of funds to make proper allocation possible.

- There are indications of a breakdown in communications. Over the past few years, there have been indications that collections are not always distributed properly. The fact that these inconsistencies in distributions exist is a clear sign that communications could and should be improved. The examples given below are symptomatic of a larger problem and are used to illustrate the communication problems that exist. Many other examples were noted and have not been detailed in this report, such as interest income in county school funds, allocation problems in corporation license taxes, and the state's contribution for veterans' headstones. These examples simply indicate that although the lines of communication are open and seem to be followed, confusion exists as to how to distribute certain funds. Examples of improper distribution are:

1. The Department of Revenue provides the county treasurers with a schedule of SB417 personal property reimbursement amounts for each taxing jurisdiction in the county. Twice a year (June and December) county treasurers are to withhold these amounts from the 40-mill payment normally sent to the state via the county collections report. This reimbursement program began in June, 1996. In December 1996, almost half the counties failed to withhold this reimbursement and to allocate it to local taxing jurisdictions.

2. HB20 personal property reimbursements are sent to the county treasurers twice a year along with a schedule of dollar amounts to be distributed to the taxing jurisdictions in the county. Since 1993, none of this reimbursement was to be distributed by the counties to the state. However, over a four year time period, it is estimated that $1 million of HB20 reimbursement was incorrectly returned to the state via high school and elementary equalization rather than distributed within the counties.

- Information the state receives is sometimes inadequate. The state mills – 33 elementary equalization mills, 22 high school equalization mills, 6 university mills, 40 statewide equalization mills, 1.5 vo-tech mills – represent approximately 75% or $225 million of the total county collections remitted to the state. Currently, there are two reports completed by county treasurers and sent to the state providing information concerning the school funds.

Form FP-6b, sent to the Office of Public Instruction, provides a breakdown of collections by source for only the 33 elementary equalization mills and the 22 high school equalization mills. There is no breakdown available by source for the 6 university mills, 40 statewide equalization mills, or 1.5 vo-tech mills. The OPI form for elementary equalization includes 24 sources of revenue.

The *State of Montana State Treasurer County Collection Report*, sent to the Department of Administration, has three lines for elementary equalization and three lines for high school equalization to record property tax, prior year revenue, and non-levy revenue.

The information received by the state in these two reports is inadequate for monitoring revenues. While Form FP-6b provides information on allocations for all the revenue sources for elementary and high school equalization, our committee knows of no report that provides similar information for university millage, statewide equalization or vo-tech millage. The revenue for these three county collections was $93 million for fiscal year 1997.

It is apparent that improved communication is contingent upon implementing the recommendations concerning legislation simplification and auditing/monitoring responsibilities.

## Legislative Clarification and Simplification of County Collections

The subcommittee on legislative clarification and simplification decided to see if they could develop a diagram that would show sources and allocations of the county collections for the state. Because county collections are so complex, the task was daunting. The resulting diagram was confusing and not at all functional.

The subcommittee then decided to determine if county collections could be divided into a handful of groups and these groups could then be diagramed. A grouping was developed and is shown on Diagram 1, which also shows the approximate amount collected for fiscal year 1997 for each category.

**Diagram 1**
**CATEGORIES OF COUNTY**
**$298.7 Million in Fiscal**

| | |
|---|---|
| **SCHOOL LEVIES - $225.4**<br>University Millage – 6 mills<br>Equalization –<br>Elementary 33 mills<br>High Schools 22 mills<br>Statewide Equalization – 40 mills<br>Vo-Tech 1.5 mills | **MOTOR VEHICLE TAXES/FEES -**<br>**Vehicle Registration Fees**<br>**Highway Vehicle Sales Tax**<br>**Highway Gross Vehicle Weight Fees**<br>**Special plate Fees**<br>**Recreation Vehicle Fees** |
| **FINES AND COURT FEES - $6.2**<br>JP Fines and Forfeitures<br>District Court Fees<br>Court Technology Surcharge<br>Other miscellaneous fines/fees | **AGRICULTURE FEES - $6.9**<br>Livestock<br>Hall Insurance<br>Foresters FPRA<br>Timber assessment |
| **OTHER - $23.1**<br>Escheated Estates AA<br>Montana Inheritance Tax<br>State Assumption of Welfare | **VEHICLE OPERATOR FEES - $0.7**<br>Drivers License<br>Duplicate License<br>Motorcycle Endorsement |

The six selected categories – School Funds, Fines and Court Fees, Motor Vehicle Taxes/Fees, Agriculture and Forest Fees, Vehicle Operator Fees and Other – represent only one of the many ways county collections could be organized. It is important to note that all 100+ revenue descriptions aren't listed in the six groupings.

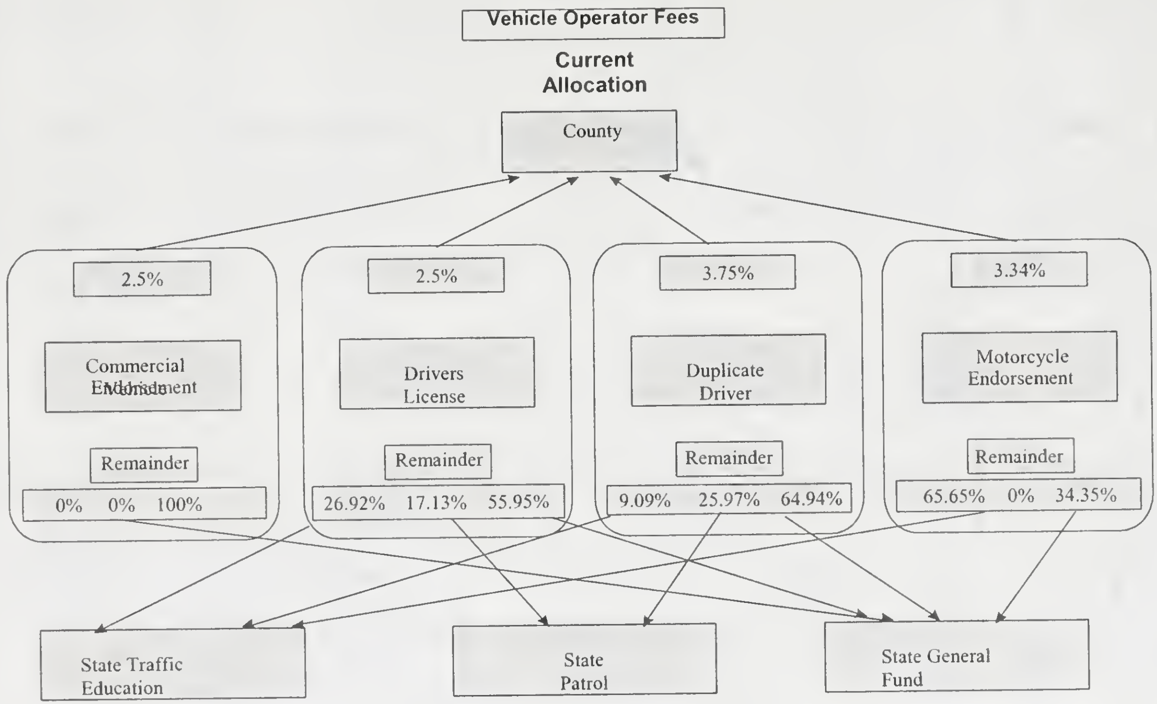
Instead a representative phrase is used (for example, the revenue description "elementary equalization" in School Funds represents three lines of code: property tax, prior year and non-levy revenue of elementary equalization). Next, these groupings were diagramed. A simple one, Vehicle Operator Fees, is presented in Diagram 2. Four types of operator fees are allocated to three different state funds. There is a different allocation scheme to these three funds for each of the four operator fees. In addition there is a different retention percentage for the county for three of the four fee types.

Diagram 2 shows the complicated allocation scheme of four simple, related revenue sources. The scheme is far too complicated for the amount of revenue involved ($700,000 from county collections) and the similarity of sources.

Diagram 3 presents the Fines and Court Fees category. For simplicity, only District Court Fees, which are provided for by statute in section 25-1-201, MCA, were diagramed. This diagram represents just eight lines on the county collection report: Clerk of Court Fee, Marriage License, Dissolution of Marriage, Substitute Judge, Clerk of Court Special Fees (Montana Judges' Salaries), Petition of Adoption, Child Abuse and Neglect, and Dissolution of Marriage - Assault and Intervention Treatment.

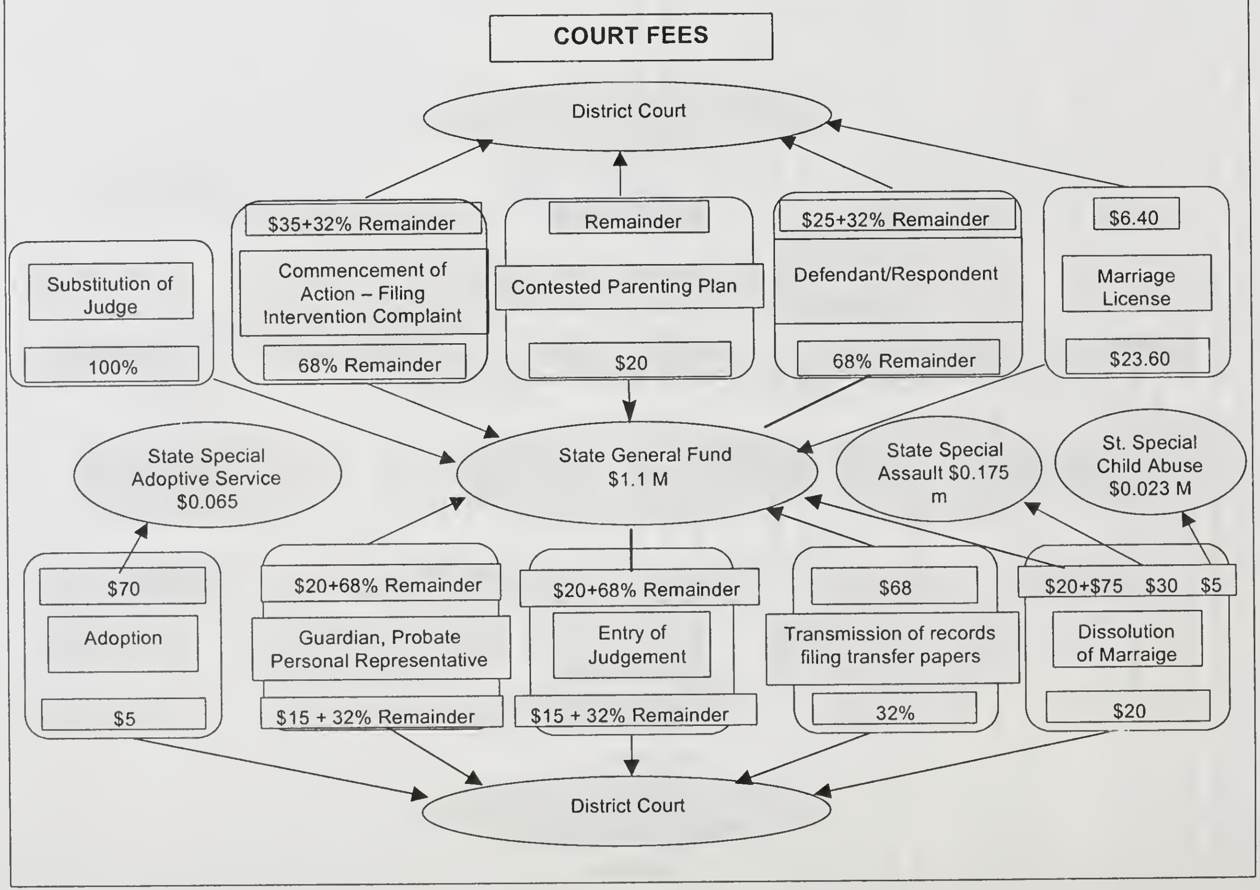
Diagram 3 shows that ten allocation schemes exist – earmarked for four different state accounts – for just one section of code. Also, several schemes involve both specific dollar amounts and percentage allocations.

**Diagram 2**



Vehicle Operator Fees
Current Allocation
County
2.5%
Commercial Endorsement
Remainder
0% 0% 100%
2.5%
Drivers License
Remainder
26.92% 17.13% 55.95%
3.75%
Duplicate Driver
Remainder
9.09% 25.97% 64.94%
3.34%
Motorcycle Endorsement
Remainder
65.65% 0% 34.35%
State Traffic Education
State Patrol
State General Fund

Diagram 3



COURT FEES
District Court
$35+32% Remainder
Commencement of Action – Filing Intervention Complaint
68% Remainder
Remainder
Contested Parenting Plan
$20
$25+32% Remainder
Defendant/Respondent
68% Remainder
$6.40
Marriage License
$23.60
Substitution of Judge
100%
State Special Adoptive Service $0.065
State General Fund $1.1 M
State Special Assault $0.175 m
St. Special Child Abuse $0.023 M
$70
Adoption
$5
$20+68% Remainder
Guardian, Probate Personal Representative
$15 + 32% Remainder
$20+68% Remainder
Entry of Judgement
$15 + 32% Remainder
$68
Transmission of records filing transfer papers
32%
$20+$75 $30 $5
Dissolution of Marraige
$20
District Court

The School Funds (more specifically, the 33 elementary equalization mills) is the last category to be presented. Approximately 24 different sources of income are allocated to elementary equalization. Fourteen sources are allocated on a mill levy basis, and ten are disbursed by another method. Of the 14 mill levy type allocations, eight different schemes are applied. The allocation of these revenues is shown in Table 1.

**Table 1**
**Allocation Scheme for Revenue Sources of County Elementary Equalization - 33 Mills**

| Source | Distribution |
|---|---|
| Elementary 33 Mills | Taxable Value times 0.033 |
| Penalty and Interest on Delinquent Taxes | According to mills for which delinquent |
| Tax, Title and Property Sales | Mill levies by year |
| Light Vehicle Tax | Relative proportions as is personal property taxes |
| Out-of-State Equipment | Same manner as other personal property taxes |
| Recreation Vehicle Fees | Relative proportions as is personal property taxes-some less 20% or less $1 per vehicle |
| State Aircraft Registration Fees | Relative proportions as is personal property taxes |
| Coal Gross Proceeds | Relative proportions as property taxes were distributed in Fiscal Year 1990 |
| Federal Forest Reserve | Proportionally by mill levies for specific funds |
| State Corporation License Tax | Relative proportions to total mill levy for jurisdiction |
| Oil & Gas Production Tax - COGS | Pre - 1985; Same as all other property tax proceeds of FY90 but not to municipality |
| Oil & Gas Production Tax - COGS | Post - 1985; Same manner as property taxes in preceding fiscal year |
| Oil & Gas Accelerated Tax | Ratio as this mill was in 1989 (28 mills) to total FY90 levied against 1988 production |
| Federal Payments in Lieu of Taxes | Agreement with county |
| Flood Control Act | 50% to common schools |
| Federal Taylor Grazing | 50% to elementary equalization |
| Federal Bankhead Jones | Decided by county - between schools and roads |
| Federal Fish/Wildlife - BLM Grazing | Decided by county |
| State Coal Board Grants | Grant Requirements |
| State Fish/Wildlife | Per DO comm/schools direct |
| County - District Court Fines | All not otherwise specified |
| County - Rents/Leases | No longer required - any county fund |
| County - Investment Earnings | Proportionately based on taxes collected for each fund |

The fund distribution graphics (Diagram 2, Diagram 3 and Table 1) illustrate only part of the whole county collection system. The graphics show the fund distribution is complex and the complexity is prevalent throughout the county collection process.

The committee did not have the resources to edit all the laws concerning county collections, nor could it provide a list of all that need to be simplified. What the committee did suggest is beginning the process to review, edit and recommend legislation to simplify the county collection and distribution laws.

This process could involve several steps, some of which would be repeated until the task is accomplished. The steps are as follows:

1. Review existing statutes to identify and analyze the "nuisance" or low volume fees currently collected by the county. Wherever possible, eliminate the fees because of minimal revenue impact or combine them with other fees and let the state make the distribution.

2. Combine certain fees at the local level and let the state make the necessary distribution when the county remits the fees. Possible areas where this approach could be used are in motor vehicle collections (including collegiate plates), livestock per capita collections and clerk of court fees. To identify any problems that may result, communication with the affected state agency should take place prior to making any decisions regarding this approach

3. Review existing fees to determine whether any fee or revenue swapping could be utilized. For example, allow counties to keep one fee or revenue as a trade off for another with like fiscal impact, thereby eliminating the need for one or more funds.

4. Simplify some of the existing laws and agency policies regarding the distribution of certain state-shared revenue payments made to counties by the state. For example, personal property tax reimbursements, oil and gas production taxes, corporation license taxes, and veterans' head stones). The goal would be to achieve consistency in distribution and transaction processing.

5. In general, where the state can split the collections for the various agencies without relying on the county treasurers, it should do so.

By simplifying Montana statute, the committee believes a truly brief and quick reference to county collections could be provided in the form of the *State of Montana County Treasurer Collections Manual*, issued biennially by the Local Government Services Bureau of the Department of Commerce. This manual could include diagrams of the improved county collection system that could be referred to and studied whenever legislation concerning county collections is proposed.

<u>Monitoring of County Collections of State Revenue</u>

Currently, the monitoring of state property tax collections is difficult and requires complicated communication networks between counties and multiple state agencies. For the purposes of this study, the committee intends for "monitoring" to include the following responsibilities:

- Interpret and implement statutory changes affecting a revenue source.

- Communicate the statutory changes, and the process for implementing them, to counties and other affected state agencies.

- Prepare reasonable revenue estimates for the revenue source and record those estimates in the state's accounting system.

- Compare actual county remittances to the agency's estimates at least annually.

- Follow up with counties and resolve discrepancies and unusual items.

- Reconcile differences between revenues reported by a county on the County Collection Report or other report (for example, FP-6b) and amounts recorded from that county on Statewide Budgeting and Accounting System.

- Make any necessary corrections to the state's accounting records.

- Notify the Department of Commerce whenever proper distribution of the revenue appears to be a problem in one or more counties, and when there is a dispute between the agency and a county(s) about distribution of the revenue.

Laws governing distribution of tax and non-tax revenues based on mill levies are administered by several different state agencies. For example, the Department of Revenue instructs counties on the distribution of personal property tax reimbursements to mills, the Department of Justice provides instruction on distribution of motor vehicle taxes to mills, and the State Auditor's Office administers federal forest reserve monies. This makes the monitoring of state property tax collections difficult.

The committee recommends that one agency should be given sufficient staff that has, or can obtain, the necessary expertise to monitor <u>all</u> state property tax collections. This would avoid duplication of effort, and preclude the need for complicated communication networks between counties and multiple state agencies. The committee agrees the Department of Revenue should assume the monitoring responsibilities, because DOR will be preparing future state budget estimates for these revenues and is the agency responsible for administering Title 15 - Taxation.

The committee recommends one form that provides the detail of counties non-levy revenue distributions to <u>all</u> state mill levies should be prepared annually by each county and remitted to the state agency responsible for monitoring property tax revenues. Currently, counties complete Form FP-6b to provide detailed information to Office of Public Instruction regarding the more than 20 different non-levy revenue sources distributed to the 22 and 33 county equalization mill levies. Counties complete another separate form to provide detail information to Department of Public Health and Human Services about non-levy revenue distributions to the nine county welfare assumption mills. However, no state agency is requesting or monitoring detail information about distributions of non-levy revenue sources to the 40 state equalization mills, the 6 university mills, or the 1.5 vo-tech mills. Non-levy revenue distributions are a significant portion of the property tax revenue collected by counties for the state and, based on OPI's experience, when an error does occur it most often involves one of these revenue sources.

The recent de-earmarking of many state special revenue accounts by the Legislature has increased the number and the amount of county collections deposited in the state's general fund. State agency ownership of these general fund revenues, for purposes of assuming/assigning monitoring responsibilities, is not clear.

Auditing of County Collections Of State Revenue

The audit contract for county financial/compliance audits conducted by independent CPA firms currently does not specifically require the revenues collected by a county for distribution to the state be included in the scope of a county's audit. State revenues collected by a county are not reported on the county's revenue statements. The county acts as a collection agent for the state and, in accordance with the BARS chart of accounts, deposits the state revenue collections in agency funds pending monthly remittance to the Department of Administration. Only amounts remaining in a county's agency funds at fiscal year end, such as cash on hand and taxes receivable, are reported on the county's financial statements.

Not all county auditors review these year-end amounts. Certain deposits to the agency funds that are remitted to the state are, however, tested by most auditors as part of their testing of the county's revenues. These include some major revenue sources such as property tax levies.

When auditing a state agency, the Legislative Audit Division performs audit procedures at the state level for county revenue collections reported by that agency. The Legislative Auditor expects agencies to monitor the receipt of county collections and to follow up on revenues that are not received according to state revenue estimates, but does not require that the agency responsible for monitoring a particular revenue source be the same agency that reports the revenue on its financial statements.

The Department of Commerce follows up on county audit findings and notifies the affected state agency when a finding relates to a specific state revenue. State agencies are not notified of county internal control problems. Only audit findings that have a material effect on the county's financial statements are required to be included in the independent auditor's report under "government auditing standards." Some auditors do, however, include in the report other findings that may not be material to the county's financial statements.

Counties collect approximately $300 million each year for the state. Monitoring procedures performed by state agencies (for example, comparing total collections to a revenue estimate) will likely detect only very large dollar errors. Smaller immaterial errors may go unnoticed. Because of the significant amount of these collections, those smaller errors could easily cost a county, the state or school districts several thousands, or even millions, of dollars. Also, some of the information needed to monitor county collections is not currently available to state agencies. This includes county mills, county investment policies and methods of distributing interest earnings, and delinquent/protested tax rates.

In summary, the auditing/monitoring recommendations are:

a. The Department of Revenue should monitor all state general fund revenue sources that are collected by counties, including property taxes.

b. The agency responsible for administering the law(s) authorizing collection of an earmarked revenue source should be the agency responsible for monitoring that revenue source.

c. The "record for agency" used on the county collection report for a particular revenue source should be consistently established as the agency that has responsibility for monitoring that revenue.

d. A state policy should be adopted and distributed by the Department of Administration in the *Montana Operation Manual*, *Volume II*, requiring that state agencies monitor county collections of state revenues. The policy should set forth the criteria for determining which agencies are responsible for monitoring which revenue sources.

e. A dispute resolution process should be designed that avoids litigation between the state and counties.

f. The Legislative Audit Division should perform an annual "central review," or limited scope audit, of county revenue collections. At a minimum, the LAD audit should include agreed upon procedures involving certain revenue sources such as high dollar and new revenues, revenues difficult or impossible for agencies to monitor at the state level, and revenues with complicated distribution requirements.

**Study of County Revenue Collection**

After the first committee finished its work and provided the recommendations above, the Department of Revenue and the Legislative Audit Division formed a County Revenue Collection (CRC) work team in early April of 1998 to explore the simplification process in more detail. The purpose was to develop procedural and legislative recommendations that improve and simply the existing process for the executive branch and local governments to consider. The CRC Team spent nine months reviewing and analyzing the county collection process in detail. They prepared a three-inch report and made 28 specific recommendations. A summary of the CRC Team conclusion follows.

> *Our investigation over the past several months has given us a great appreciation for county treasurers, the state treasurer and the work that they perform. The county revenue collection process, as it exists, is very complex. There are a significant number of revenues being collected, Involving a substantial number of distributions mandated by complicated and ambiguous statutory requirements. Over time, some parts of this process have not kept pace with the technological advances available, resulting in several problems which have made the existing county revenue collection process continually more difficult to administer.*
>
> *Throughout our report, we describe issues such as multiple hand-offs, inconsistency, complexity, duplication of effort, inefficiency, lack of clarity and lack of adequate checks and balances in the collection process. Many of the recommendations we have made are merely cosmetic and would produce efficiency and simplification. However to significantly improve the county revenue collection process, three important areas of need must be addressed: automation, adequate checks and balances, and simplification of laws.*
>
> *There are several statutes that have been in existence for many years, which have become out-dated. These statutes and others have created inefficiencies and complexities in the revenue collection process. A concerted effort should be made on the part of everyone involved in the revenue collection process to review and revise existing laws that complicate and make the process inefficient.*
>
> *Another step toward simplifying the county revenue collection process would involve looking at each revenue source in further detail to determine which revenues could be consolidated, eliminated or redistributed. Consolidating certain revenues would reduce the number of allocations, increase credibility and result in efficiencies. Some fees bring in so little money that the cost of the administration may outweigh the revenue generated. These fees are prime candidates for elimination. Minimizing revenue splits between counties and the state would reduce hand-offs and simplify distributions. The concept of counties retaining all of the revenues for specific revenue sources and the state retaining the revenues from others would eliminate the need for hand-offs and considerably simplify the revenue collection process.*

## Impact of Property Tax Legislation

In late August of 1998, the Department of Revenue established the Local Government Funding Visioning Group. The group expanded itself to include schools. This group was comprised of representatives from the Montana Association of Counties (MACo), Montana League of Cities and Towns, Montana Department of Justice, Office of Public Instruction, county commissioners, city managers, city mayors, city attorneys and school personnel.

The original purpose of this group was to find an appropriate way to deal with local government and school budgets in light of potential tax changes (particularly in the property area) that were being discussed and would have a profound revenue impact on local government and schools. In the past when there were significant reductions made in personal property tax, the state established a reimbursement program that was fixed in time. In later sessions, the legislature began a ten-year phase out of the reimbursement programs.

This group discussed the potential revenue reductions. They chose not to present a short-term solution, but rather to address the challenge in a bigger way. They requested the legislature provide a committee to address the relationship concerns among Montana governments and provide a revenue system that is simple, understandable, equitable, stable and adequate and a distribution system that is simple, efficient, accurate and timely. Specifically their vision statement read as follows:

> *We are dedicated to a partnership among state, county, city and school districts that is based on mutual trust and respect for local authority. This partnership will enable all governments to respond to the demands of their citizens in the 21st century through a revenue system that is simple, understandable, equitable, stable and adequate and through a revenue collections and distribution system that is simple, efficient, accurate and timely.*

Significant tax cuts which impact school and local government revenues were enacted during the 1999 Legislative Session. Local governments and schools had a reduction in property taxes of $115.6 million over the biennium. Reductions in local government and school property taxes are offset by state general fund reimbursements provided for in SB184 and HB 260. Specifically SB184 and HB 260 provide appropriations totaling $76 million for reimbursements to local governments and schools for the 2001 biennium. This leaves $39.6 million to be recouped, wholly or in part, through increases in mill levies. The net impact on local government will depend on the extent to which this tax reduction is recouped through mill levy increases.

**Proliferation of Property Tax Reimbursement Programs**

Most bills introduced to change property taxes during the 1999 session contained a reimbursement provision. There were eight major property tax reduction bills passed. These were House Bills 128, 174, 479 and 669, and Senate Bills 111, 184, 200 and 487. There are two property tax reimbursement programs already in existence from past sessions (referred to as House Bill 20 and Senate Bill 417 reimbursements). There existed the potential to have ten reimbursement programs for local governments and schools.

Reimbursement programs have many drawbacks.

- They are based on one point in time. When the circumstances of the taxing jurisdiction change, the reimbursement program becomes outdated.
- They are difficult to calculate. Each reimbursement program has some unique requirements, which call for a separate calculation for each program.
- They are very confusing and complicated for the local governments and schools to administer when estimating the reimbursements for budget purposes, determining mill levy limits and allocating the reimbursement to the correct taxing jurisdiction.

The 1999 Legislature combined all the new reimbursement ideas into Senate Bill 184.

## FUNDING CHANGES

One of the most complicated and confusing aspects of Montana's state-local intergovernmental relationship is the transfer of funds that currently exists between these two levels of government. This web of fund transfers involves many revenue sources, some of which require multiple transfers before their final use, multiple allocations to various earmarked funds, and complicated distribution schemes based on property tax mills levied by multiple jurisdictions. This complexity leads to inefficiencies in government operations, erodes accountability in the system, and complicates revenue forecasting.

At its October 1999 meeting the Local Government Funding and Structure Committee identified the following three major goals to be accomplished during the course of its deliberations:

**GOAL 1:** Simplify the billing, collection, accounting, distribution and reporting of all local government revenues.

**GOAL 2:** De-earmark revenues and eliminate expenditure mandates for local government.

**GOAL 3:** Create a rational, dependable, stable funding structure for counties and municipalities.

To address these goals, the committee developed specific recommendations with respect to changing the flow of funds between state and local governments. The goals and objectives of the funding changes were to greatly simplify the flow of money used to fund state and local governments, to add accountability to the system, and to provide for no net gain or loss to either the state or to local governments or schools in this process.

Initial recommendations resulted in net revenue losses for some local governments, but revenue gains for others. Any proposal that resulted in a net revenue gain for some local governments would require additional state general fund spending to maintain current revenue flows for all local governments. Because of this, the committee's final recommendations were designed, in part, to ensure that the funding recommendations resulted in no local governments having a funding increase. All local governments would, instead, be made whole through a local government Entitlement Share payment from the state general fund.

### Funding Change Recommendations

The committee's funding change recommendations include the following major components:

## Revenue Changes

1) All personal property tax reimbursements provided to local governments under current law would be repealed (HB20, SB417, and SB184).
2) Regarding motor vehicles: All ad valorem and fee-related revenue from motor vehicles, other than local option taxes and gross vehicle weight (GVW) fees, would be deposited in the state general fund. This would include the district court share (10%) of the fee in lieu of property tax, and vehicle fees levied for district court purposes. In addition, the state would retain fees and taxes related to interstate fleet (IRP) vehicles for deposit in the highway account. Currently, these IRP vehicle fees are distributed to local governments.
3) All gaming revenue would be deposited in the state general fund.
4) The state would retain all revenue from corporation license taxes levied on financial institutions.
5) Taylor Grazing funds would be retained by the state. The county will retain all Fish Wildlife Service Refuge and Bankhead-Jones funds.
6) All alcohol-related revenues would be retained in full by the state.

## Expenditure Changes

1) The state would assume funding responsibility for district courts, except for clerks of district courts.
2) The state would assume full funding responsibility for welfare programs.

Table 3 shows the net impact, by broad governmental groupings, of the funding shifts that would occur under the above set of recommendations. Funding shifts are estimated for fiscal 2001, and reflect the assumption that the electorate will approve HB540 relating to motor vehicle taxation in November 2000. The category "Federal Payments" refers to the Taylor Grazing funds.

The above-recommended shifts in revenue to the state result in net losses of revenue to all counties and municipalities. Local governments would be kept whole, however, under an Entitlement Share program that provides for transfers of state general fund revenue in the amount of the revenue reduction for each county and municipality. The Entitlement Share program is discussed in detail in the Entitlement Share chapter of this report.

| Table 3<br>Impacts of Proposed Funding Shifts - FY2001 | | | | | | |
|---|---|---|---|---|---|---|
| | Impact On: | | | | | |
| Revenue Impacts | State Government | County Government | City/Town Government | TIFs | Schools | Net Impact |
| Personal Property Reimbursements | 76,035,161 | (32,494,627) | (6,129,100) | (4,776,051) | (32,635,382) | (0) |
| MV - District Court 10% | 6,213,877 | (6,213,877) | 0 | 0 | 0 | 0 |
| MV - All Other | 73,103,431 | (33,423,394) | (10,817,548) | 0 | (27,962,489) | 900,000 |
| Gaming Revenue | 27,777,641 | (6,463,857) | (21,313,784) | 0 | 0 | 0 |
| District Court Fees | 1,906,941 | (1,906,941) | 0 | 0 | 0 | 0 |
| Financial Institutions Tax | 8,397,202 | (2,568,867) | (1,907,162) | 0 | (3,921,173) | 0 |
| Federal Payments | 116,782 | (116,782) | 0 | 0 | 0 | 0 |
| Alcohol-Related Taxes | 4,023,803 | (456,316) | (3,567,487) | 0 | 0 | 0 |
| All Other Impacts | 2,386,347 | (1,698,586) | (256,186) | 0 | (431,575) | 0 |
| **Total Revenue Impacts** | **199,961,185** | **(85,343,247)** | **(43,991,267)** | **(4,776,051)** | **(64,950,619)** | **900,000** |
| | | | | | | |
| **Expenditure Impacts** | State | County | City | TIFs | Schools | Net Impact |
| State Funded District Courts | (20,852,499) | 20,852,499 | 0 | 0 | 0 | 0 |
| State Funded Welfare | (13,959,884) | 13,959,884 | 0 | 0 | 0 | 0 |
| **Total Expenditure Impacts** | **(34,812,383)** | **34,812,383** | **0** | **0** | **0** | **0** |
| | | | | | | |
| **Net Impact** | **165,148,802** | **(50,530,864)** | **(43,991,267)** | **(4,776,051)** | **(64,950,619)** | **900,000** |

Table 3 includes separate sections for revenue impacts and proposed expenditure impacts. Under the committee's recommendations, revenues to state government would be increased an estimated $200 million per year. Repealing personal property tax reimbursements would no longer require general fund distributions totaling $76.0 million. Bringing motor vehicle fees and taxes to the state would increase revenues by $79.3 million. Retaining all video gaming revenue at the state level would increase collections by $27.8 million. The remaining items increase revenues a total of $16.9 million.

Under the committee's recommendations, the state would be responsible for fully funding district courts and welfare programs. This would increase state expenditures by $20.8 million for district courts, and $14 million for welfare programs. The total increase in state expenditures of $34.8 million, results in a net impact on state funding of $165.1 million per year.

Revenues to county governments decrease a total of $85.3 million, with motor vehicle and personal property reimbursement shifts making up $72.1 million (85%) of this reduction. Reductions in the areas of gambling, financial institutions taxes, federal payments, alcohol-related taxes, and other sources reduces revenue to counties an additional $13.2 million.

No longer having to fund certain district court and welfare costs offsets these revenue reductions by $34.8 million. Counties will either receive state replacement revenue under the entitlement share program, or will be able to redirect the revenue currently being generated for these purposes, to provide funding for other county government services. With these reduced funding requirements, there is a net decrease in county governments' resources of $50.5 million.

The revenue of city and town governments is reduced a total of $44 million. Half of this reduction is from gambling revenue, which is reduced by $21.3 million. Loss of motor vehicle fees and taxes reduces revenue to municipalities $10.8 million. Reductions in the areas of alcohol-related taxes, financial institutions taxes, personal property reimbursements and other minor impacts account for the remaining $11.9 million reduction in revenues.

Tax increment financing districts lose personal property tax reimbursement funds totaling $4.8 million.

Revenues to fund schools is reduced a total of $65 million. Of this amount, loss of personal property reimbursements accounts for $32.6 million, while loss of motor vehicle revenue accounts for $28 million. Other changes reduce revenue to schools a total of $4.4 million.

Under recommendations developed by the Court Funding and Structure Committee, the state is to assume responsibility for funding district courts, except for clerks of district court. This is expected to increase state expenditures by $20.9 million per year. However, the state will receive $6.2 million in revenue from motor vehicles that currently goes to a state special revenue fund, which is then distributed back to district courts, and approximately $1.9 million in fees related to district court funding. This results in a net new state general fund expenditure requirement of $12.8 million for current level district court services. Similarly, county governments are relieved of a $20.9 million responsibility to fund the courts, but no longer will receive the above revenue sources for a net financial gain of $12.8 million.

The net impact of the proposal is an overall increase in revenue of $900,000. This increase is due to streamlining the vehicle registration and title fees.

Table 4 shows the total increase in revenue to state government, by detailed revenue source.

Table 4

Increase in State Funding by Detailed Revenue Source

| Revenue Item | Amount |
|---|---|
| **A. Personal Property Reimbursements** | |
| SB184 | $ 50,861,342 |
| SB417 | 10,845,278 |
| HB20 | 9,552,490 |
| Paid to TIFs | 4,776,051 |
| **Sub-Total** | **$ 76,035,161** |
| **B. Motor Vehicle Taxes and Fees** | |
| Motor Vehicle Taxes | $ 49,610,493 |
| All Other Non-Levy Revenue Based on Mill Levies | 9,130,220 |
| License Fee | 9,758,817 |
| 10% of Light Vehicle Fees for District Courts | 6,213,877 |
| IRP Fee in Lieu of Taxes (FILT) | 3,513,706 |
| IRP License Fee | 707,650 |
| New Use Tax (County Admin Share) | 382,545 |
| **Sub-Total** | **$ 79,317,308** |
| **C. Gaming Revenue** | **$ 27,777,641** |
| **D. District Court Fees** | **$ 1,906,941** |
| **E. Financial Institutions Tax** | **$ 8,397,202** |
| **F. Federal Payments** | |
| Taylor Grazing | 116,782 |
| **Sub-Total** | **$ 116,782** |
| **G. Alcohol-Related Taxes** | |
| Beer Tax | $ 2,247,465 |
| Liquor Tax | 1,595,723 |
| Wine Tax | 180,615 |
| **Sub-Total** | **$ 4,023,803** |
| **H. All Other Impacts** | |
| County Title-Road Funds | $ 429,720 |
| County Personalized Plate Fee ($20 of $25) | 424,991 |
| FWP-PILT | 297,127 |
| DNRC-PILT | 560,578 |
| Late Filing Fee | 202,466 |
| County Land Planning | 198,663 |
| State Aeronautics Fee | 192,514 |
| Special Mobile Equipment | 45,611 |
| Off-Highway County Titling | 9,003 |
| Disabled Veteran Flat Fee | 7,486 |
| Single Movement Permit | 7,239 |
| Veterans/Purple Heart $10 Original County General $3 | 6,602 |
| Camper Decal/Replacement Decal | 4,140 |
| County Manufactured Home De-Title | 208 |
| **Sub-Total** | **$ 2,386,347** |
| **Grand Total** | **$ 199,961,185** |

Table 5 shows the revenue impacts of the base proposal on county governments, while

**Table 5**
**Impacts on County Government (Excluding TIFs) - FY2001**

| County Name | County Government | County Road Fund | Total County Government | Countywide Transportation | Countywide Retirement | Total County Impact |
|---|---|---|---|---|---|---|
| Beaverhead | (440,398) | (71,761) | (512,159) | (35,598) | (162,696) | (710,453) |
| Big Horn | (326,455) | (112,919) | (439,374) | (64,544) | (183,186) | (687,104) |
| Blaine | (148,165) | (68,003) | (216,168) | (14,875) | (116,777) | (347,820) |
| Broadwater | (397,557) | (32,078) | (429,635) | (17,390) | (106,681) | (553,706) |
| Carbon | (358,593) | (80,162) | (438,755) | (28,800) | (144,355) | (611,910) |
| Carter | (138,738) | (28,026) | (166,764) | (9,984) | (19,433) | (196,182) |
| Cascade | (142,401) | (82,103) | (224,504) | (94,250) | (606,185) | (924,939) |
| Chouteau | (506,672) | (140,723) | (647,395) | (38,675) | (142,963) | (829,034) |
| Custer | (457,130) | (37,243) | (494,373) | (9,925) | (125,912) | (630,210) |
| Daniels | (209,109) | (112,599) | (321,708) | (26,498) | (54,691) | (402,897) |
| Dawson | (820,226) | (88,923) | (909,149) | (28,737) | (156,718) | (1,094,604) |
| Deer Lodge | (838,305) | (875) | (839,180) | (15,750) | (61,565) | (916,494) |
| Fallon | (173,466) | (32,679) | (206,145) | (49,832) | 0 | (255,978) |
| Fergus | (323,251) | (99,679) | (422,931) | (71,072) | (260,403) | (754,406) |
| Flathead | (2,144,712) | (325,578) | (2,470,290) | (100,202) | (947,711) | (3,518,203) |
| Gallatin | (1,685,371) | (180,778) | (1,866,149) | (93,938) | (639,659) | (2,599,746) |
| Garfield | (173,525) | (35,778) | (209,303) | (21,304) | (32,064) | (262,671) |
| Glacier | (387,026) | (136,492) | (523,518) | (48,767) | (160,093) | (732,379) |
| Golden Valley | (48,914) | (15,371) | (64,286) | (4,901) | (21,718) | (90,905) |
| Granite | (255,231) | (33,891) | (289,122) | (8,987) | (69,789) | (367,897) |
| Hill | (551,179) | (156,424) | (707,602) | (59,082) | (277,439) | (1,044,123) |
| Jefferson | (701,699) | (64,996) | (766,694) | (49,438) | (244,482) | (1,060,614) |
| Judith Basin | (213,649) | (60,029) | (273,678) | (22,102) | (33,568) | (329,348) |
| Lake | (426,734) | (91,209) | (517,942) | (79,943) | (356,872) | (954,758) |
| Lewis And Clark | (533,981) | (125,157) | (659,138) | (63,614) | (584,248) | (1,307,000) |
| Liberty | (271,108) | (40,361) | (311,469) | (18,526) | (45,832) | (375,826) |
| Lincoln | (470,372) | (1,411) | (471,783) | (65,899) | (227,416) | (765,098) |
| Madison | (495,221) | (56,373) | (551,594) | (26,223) | (114,764) | (692,581) |
| Mccone | (284,581) | (49,807) | (334,388) | (19,957) | (52,373) | (406,718) |
| Meagher | (153,382) | (23,170) | (176,551) | (6,187) | (25,572) | (208,310) |
| Mineral | (278,191) | (470) | (278,661) | (9,337) | (42,249) | (330,246) |
| Missoula | (2,433,790) | (282,561) | (2,716,351) | (117,557) | (1,104,972) | (3,938,880) |
| Musselshell | (68,186) | (52,887) | (121,073) | (17,890) | (64,861) | (203,824) |
| Park | (415,596) | (55,634) | (471,230) | (34,811) | (254,996) | (761,037) |
| Petroleum | (47,533) | (15,098) | (62,630) | (10,855) | (19,924) | (93,410) |
| Phillips | (153,552) | (77,791) | (231,343) | (40,847) | (140,476) | (412,666) |
| Pondera | (411,206) | (69,454) | (480,660) | (29,051) | (168,647) | (678,357) |
| Powder River | (310,333) | (96,940) | (407,273) | (27,324) | (52,685) | (487,283) |
| Powell | (173,668) | (39,099) | (212,768) | (19,178) | (106,826) | (338,772) |
| Prairie | (149,982) | (22,912) | (172,895) | (11,874) | (35,260) | (220,028) |
| Ravalli | (757,564) | (140,018) | (897,581) | (67,779) | (271,358) | (1,236,719) |
| Richland | (458,321) | (119,731) | (578,052) | (61,206) | (172,391) | (811,650) |
| Roosevelt | (291,052) | (64,602) | (355,654) | (36,279) | (203,426) | (595,359) |
| Rosebud | (1,924,807) | (193,479) | (2,118,286) | (101,425) | (673,361) | (2,893,072) |
| Sanders | (804,711) | (126,021) | (930,732) | (74,991) | (337,450) | (1,343,173) |
| Sheridan | (389,346) | (83,850) | (473,196) | (39,160) | (91,596) | (603,952) |
| Silver Bow | (2,603,843) | (126,329) | (2,730,172) | (24,227) | (429,126) | (3,183,524) |
| Stillwater | (567,837) | (126,964) | (694,801) | (30,539) | (182,671) | (908,011) |
| Sweet Grass | (234,893) | (33,253) | (268,145) | (17,109) | (83,898) | (369,152) |
| Teton | (386,536) | (76,104) | (462,639) | (36,197) | (130,778) | (629,615) |
| Toole | (418,812) | (108,479) | (527,291) | (23,561) | (139,181) | (690,033) |
| Treasure | (83,394) | (19,489) | (102,883) | (6,919) | (23,636) | (133,438) |
| Valley | (187,466) | (88,165) | (275,631) | (35,692) | (153,267) | (464,590) |
| Wheatland | (146,388) | (21,834) | (168,222) | (11,107) | (39,488) | (218,816) |
| Wibaux | (162,154) | (83,081) | (245,235) | (9,925) | (23,697) | (278,857) |
| Yellowstone | (2,329,077) | (426,509) | (2,755,586) | (190,502) | (2,128,399) | (5,074,487) |
| TOTALS | (30,265,387) | (4,935,353) | (35,200,740) | (2,280,341) | (13,049,782) | (50,530,863) |

Table 6 shows these impacts for municipalities.

**Table 6**
**Impact on Cities and Towns (Excluding TIFs) - FY2001**

| City Name | Net Impact | City Name | Net Impact | City Name | Net Impact |
|---|---|---|---|---|---|
| Alberton | (36,143) | Flaxville | (6,223) | Opheim | (11,828) |
| Anaconda | (106,133) | Forsyth | (219,066) | Outlook | (3,987) |
| Bainville | (37,263) | Fort Benton | (140,213) | Phillipsburg | (89,381) |
| Baker | (239,279) | Fort Peck | (9,281) | Pinesdale | (26,004) |
| Bearcreek | (2,162) | Froid | (13,789) | Plains | (171,975) |
| Belgrade | (390,748) | Fromberg | (25,585) | Plentywood | (184,272) |
| Belt | (58,159) | Geraldine | (18,508) | Plevna | (8,839) |
| Big Sandy | (61,201) | Glasgow | (340,156) | Polson | (442,607) |
| Big Timber | (144,645) | Glendive | (488,480) | Poplar | (89,345) |
| Billings | (8,489,961) | Grass Range | (8,539) | Red Lodge | (263,715) |
| Boulder | (113,257) | Great Falls | (4,904,793) | Rexford | (12,349) |
| Bozeman | (2,687,519) | Hamilton | (728,142) | Richey | (11,013) |
| Bridger | (130,256) | Hardin | (432,859) | Ronan | (249,844) |
| Broadus | (55,351) | Harlem | (118,601) | Roundup | (175,649) |
| Broadview | (10,168) | Harlowton | (93,872) | Ryegate | (17,851) |
| Brockton | (6,313) | Havre | (967,240) | Saco | (13,733) |
| Browning | (35,456) | Helena | (2,616,293) | Scobey | (95,017) |
| Butte | (65,285) | Hingham | (7,068) | Shelby | (367,867) |
| Cascade | (47,558) | Hobson | (25,014) | Sheridan | (47,971) |
| Chester | (88,012) | Hot Springs | (30,344) | Sidney | (517,412) |
| Chinook | (170,603) | Hysham | (26,892) | Stanford | (43,920) |
| Choteau | (119,490) | Ismay | (483) | Stevensville | (125,186) |
| Circle | (70,016) | Joliet | (31,930) | St. Ignatius | (45,421) |
| Clyde Park | (19,664) | Jordan | (34,840) | Sunburst | (30,413) |
| Colstrip | (596,313) | Judith Gap | (7,889) | Superior | (128,511) |
| Columbia Falls | (512,283) | Kalispell | (1,969,840) | Terry | (62,219) |
| Columbus | (318,518) | Kevin | (16,137) | Thompson Falls | (237,188) |
| Conrad | (255,016) | Laurel | (557,073) | Three Forks | (90,520) |
| Culbertson | (71,161) | Lavina | (4,987) | Townsend | (185,072) |
| Cut Bank | (390,833) | Lewistown | (483,097) | Troy | (121,523) |
| Darby | (67,704) | Libby | (409,588) | Twin Bridges | (28,905) |
| Deer Lodge | (288,339) | Lima | (19,136) | Valier | (27,654) |
| Denton | (23,428) | Livingston | (812,714) | Virginia City | (22,128) |
| Dillon | (375,311) | Lodge Grass | (20,600) | Walkerville | (15,065) |
| Dodson | (10,245) | Malta | (198,865) | West Yellowstone | (158,577) |
| Drummond | (26,576) | Manhattan | (76,154) | Westby | (27,472) |
| Dutton | (33,894) | Medicine Lake | (29,319) | White Sulphur | (133,385) |
| East Helena | (348,386) | Melstone | (7,918) | Whitefish | (526,659) |
| Ekalaka | (44,884) | Miles City | (852,263) | Whitehall | (121,977) |
| Ennis | (89,935) | Missoula | (5,068,486) | Wibaux | (71,788) |
| Eureka | (78,718) | Moore | (9,419) | Winifred | (10,694) |
| Fairfield | (56,807) | Nashua | (27,419) | Winnet | (16,260) |
| Fairview | (96,072) | Neihart | (2,820) | Wolf Point | (229,074) |

| Net Impact | (43,991,267) |
|---|---|

Table 5 shows the net impact on counties, including the impact to countywide school transportation and retirement accounts. The committee recommends replacing revenue for these latter two accounts by a payment to each county for these accounts. County governments would receive an entitlement share payment equal to the amount shown in the middle column labeled "Total County Government", or $35.2 million.

## Summary

This chapter provides a summary of the impacts on state government, local governments and schools of proposed changes in the flows of several different revenue sources. These changes are proposed to greatly simplify the flow of money used to fund state government, local governments and schools, to add accountability to the system, and to provide for no net gain or loss to local governments or schools in the process.

The recommendations redirect the flow of many revenue sources to the state general fund, resulting in a net reduction in revenue for all counties and cities and towns. This increase in revenue to the state general fund can then be used to transfer funds to local governments through an annual entitlement share program in a manner that keeps all local government units whole at their current funding levels.

The net impact of the proposal is an overall increase in revenue of $900,000. This increase is due to streamlining the vehicle registration and title fees. This results in a net increase in total revenues of $900,000 million, all of which would accrue to the state general fund.

## ENTITLEMENT SHARE

Without replacement revenue, the Local Government Funding and Structure Committee's recommendations for simplifying revenue collections and distributions result in a shift in revenue to the state and a net loss of revenue to all counties and municipalities. Local governments will be kept whole, however, through transfers of state general fund revenue under an Entitlement Share program.

The committee recommends retaining a number of local revenue sources at the state and replacing the revenue with a single Entitlement Share payment to each local government. In the first year of the program, the Entitlement Share payments are to approximate the proposed shift of revenue to the state. In following years, the Entitlement Share will grow according to a measure of economic conditions in the state.

### Entitlement Share Growth Rate

The committee wanted the Entitlement Share growth to reflect current economic conditions in the state and state government's revenue capacity. Therefore, it set the growth rate indices for the Entitlement Share pool at 70% of the five-year average of the state gross domestic product and personal income for the latest years available for each. Then due to the timing of numbers being available to calculate the growth factor and the need to budget a specific general fund amount, there is a lag time between the measurement of the growth rate and it's application. For example, the growth rate for fiscal 2002 is the number available for fiscal 1999. The growth rate for fiscal 2003 is the number available at the end of fiscal 2000.

#### Economic Growth Indicators

There are two readily available measures of the state economy, gross state product and state personal income. The Bureau of Economic Analysis (BEA) of the US Department of Commerce publishes both.

Gross state product measures the value of goods and services produced in the state, in the current year. Personal income measures the income received by people in the state. Gross state product includes the value of goods produced in the state, even when the income from that production goes to someone outside the state. Personal income may include income from production occurring outside the state or income that is not related to current production, such as pensions and agricultural price support payments.

These differences are small relative to total state income. The two measures generally move together. Personal income is more volatile than gross state product, with larger changes in its annual growth rate. Personal income is a slightly better indicator of state income tax revenues, because it measures income received in Montana. Gross state product is a slightly better indicator of revenue state government receives from other sources, because it measures the value of production in the state.

Link of Growth Rate to State Government's Revenue Capacity

Both personal income and gross state product track short-run movements of the economy. They grow slower and may decrease during recessions. They grow faster during the boom phases of business cycles. If the growth rate of the Entitlement Share is set equal to the latest year's growth rate in one of the economic indicators, the Entitlement Share will track short-run movements of the state economy and state government's ability to raise revenue. When the state economy grows both the state general fund and the Entitlement Share would grow with it. When the state economy suffers a downturn, both the state general fund and the Entitlement Share would decrease.

Averaging the growth rate of an economic indicator over several years removes the influence of the short-term business cycle and reflects the long-run growth trend of the economy. Business cycles average about four years in length, and most of the influence of the business cycle can be removed by taking the average growth rate over five years.

Using 70% of the average growth rate of both economic indicators over the last five years ties growth of the Entitlement Share to the long-run growth of the state economy and state government's revenue capacity and insulates it from effects of the business cycle. The state general fund will absorb the effects of short-run economic fluctuations. In years when the state economy grows faster than its trend, the state general fund would keep the excess. In years when the state economy grows slower than its trend, state general fund spending will absorb the shortfall.

Table 7 shows single-year and five-year average growth rates for gross state product and personal income for the period 1987 through 1997.

Table 7
Comparison of Growth Rates of Economic Indicators

| | ---One Year Growth Rate--- | | Average Annual ---Growth Rate Over--- Five Years | |
|---|---|---|---|---|
| Calendar Year | Gross State Product | State Personal Income | Gross State Product | State Personal Income |
| 1987 | 3.30% | 3.15% | 2.34% | 4.05% |
| 1988 | 2.22% | 2.19% | 2.17% | 3.53% |
| 1989 | 7.90% | 9.36% | 2.65% | 4.00% |
| 1990 | 4.86% | 6.19% | 3.71% | 4.88% |
| 1991 | 4.75% | 7.41% | 4.59% | 5.63% |
| 1992 | 7.16% | 5.54% | 5.36% | 6.11% |
| 1993 | 6.96% | 7.84% | 6.32% | 7.26% |
| 1994 | 5.42% | 2.11% | 5.83% | 5.80% |
| 1995 | 3.77% | 5.15% | 5.60% | 5.59% |
| 1996 | 3.11% | 4.27% | 5.27% | 4.96% |
| 1997 | 4.64% | 4.29% | 4.77% | 4.71% |
| 1998 | 4.20% | 5.83% | 4.23% | 4.32% |

The committee wants growth of the Entitlement Share to reflect long-run economic trends, but not business cycles. Therefore, the committee set the growth rates indices for the Entitlement Share pool at 70% of the five-year average of the state gross domestic product and personal income for the latest years available. The growth rate for fiscal 2002 is based on the calendar year numbers available in September 1999. The growth rate for fiscal 2003 is based on the calendar year numbers available in September 2000.

**Allocation of Entitlement Share**

The committee recommends retaining a number of local revenue sources at the state and replacing them with a single Entitlement Share payment to each local government. The first year, the entitlement payments are to match approximately the revenue decrease due to simplifying the revenue distributions and the expenditure reductions for district courts and welfare. In following years, the total Entitlement Share payments are intended to change as the state economy changes.

Short-Term Entitlement Share Allocation Method

The committee determined a short-term method to allocate the Entitlement Share among local governments. In the first year, each local government's base component is approximately equal to the revenue that the government unit would have received prior to simplifying the revenue distributions and to changing expenditure requirements. After the first year, growth in the Entitlement Share is allocated to each county and city for inflation. If there is additional revenue available, it is allocated among the counties and cities based on population.

Under the allocation method, a jurisdiction's share of the entitlement pool grows over time if its baseline share of the pool is significantly less than its share of state population. There are three steps in the allocation process.

The first step is to calculate each county and city's new entitlement share base component by adjusting its previous entitlement for inflation.

The second step is to add all of the new base components together and compare the total to the new Entitlement Share pool.

If the new Entitlement Share pool is greater than the sum of the new base components, the third step is to allocate the difference to jurisdictions in proportion to their population.

If the new Entitlement Share pool is less than the sum of the new base components, each jurisdiction receives the same share of the pool, as it did the previous year.

This allocation method is illustrated in the following example, with two hypothetical jurisdictions, **A** and **B**. **A**'s population is 2,000 and **B**'s is 3,000.

Step 1: Last year, each jurisdiction had an entitlement of $1,000. Inflation was 1%, so both the base components are increased to $1,010.

Step 2: Economic growth was 5%, so the Entitlement Share pool grows from $2,000 to $2,100. The sum of the new base components is $2,020. This leaves $80 to allocate to the two jurisdictions' growth components.

Step 3: **A** has 40% of the total population and B has 60%. A's growth component is 40% of $80, or $32. B's growth component is 60% of $80, or $48.

The new **A** entitlement is $1,042 and the new **B** entitlement is $1,058.

## SCHOOL FUNDING CHANGES

The school funding changes $65 million for school block grants, $13 million for countywide elementary and high school retirement funds, and $2.3 million for the countywide transportation fund. The first section of this chapter explains the block grant program that will be administered by the Office of Public Instruction (OPI) for the 2003 biennium. The second and third sections explain the payments that will be made to counties for the countywide transportation fund and the countywide retirement funds.

### School District Block Grants

The committee recommends retaining six local revenue sources at the state and replacing them with a single reimbursement payment to each school district. The six local revenue sources are vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, Department of Natural Resources and Conservation Payment in Lieu of Taxes (DNRC-PILT), Fish, Wildlife and Parks Payment in Lieu of Taxes (FWP-PILT), and property tax reimbursements (HB20, SB417, and SB184).

Representatives from education associations testified that the Office of Public Instruction, along with members of the Education Forum, is sponsoring legislation in 2001 for an interim study of the school funding and equalization formula. Therefore, it is not appropriate to make drastic changes in the existing funding formula. Based upon this testimony, the committee decided to establish a block grant reimbursement which sunsets at the end of fiscal year 2003.

The amount of the block grant for each school district will be based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, DNRC-PILT, FWP-PILT, and property tax reimbursements (HB20, SB417, and SB184). With the exception of vehicle taxes and fees, a school district will use the amount actually received from these sources in fiscal year 2001 in its estimate of the block grant for fiscal year 2002. For vehicle taxes and fees, a school district will use 93.4% of the amount actually received in fiscal year 2001 in its estimate of the block grant for fiscal year 2002. (The estimate for vehicle taxes and fees assumes passage of HB 540.) The electronic reporting system (MAEFAIRS), which is used by OPI and school districts, will allow for the automatic calculation of the block grant and will "pre-fill" the block grant amount into the district's fiscal year 2002 budget as an anticipated revenue source. The same block grant amount will be anticipated by and distributed to schools in fiscal year 2003.

The committee did not build in a growth factor for the block grants because the block grant system is a temporary funding structure. The committee recommends that schools receive the same amount in each of fiscal years 2002 and 2003. The amount appropriated to the Office of Public Instruction for the school block grants is based on the Local Government Funding and Structure Committee's best estimate of the revenues that school will receive in fiscal year 2001 from corporate license taxes paid by financial institutions, aeronautics fees, DNRC-PILT, FWP-PILT, and property tax reimbursements (HB20, SB417, and SB184), and motor vehicles fees and taxes based on HB540 passing.

The 2001 legislature will appropriate a block grant amount to OPI for distribution to schools in fiscal year 2002 and fiscal year 2003. If the block grant appropriation is more or less than the total amount received by schools from the revenue sources, OPI will pro-rate the amount appropriated across the total block grants for which schools are eligible based on the fiscal year 2001 revenue amounts.

The block grant payments will be distributed to schools by OPI in November and May on the same schedule as the guaranteed tax base aid.

**Countywide Retirement**

There are two countywide retirement mill levies. One is for elementary schools and the other is for high schools. The state will pay counties to replace the estimated revenue change based on fiscal year 2001 revenue estimates adjusted for HB540 being in effect a full year minus the reimbursement reductions that would have occurred for HB20 and SB417. This is a decrease of $2,645,275 each year to reflect the 10% a year reduction in the two reimbursement programs. This is the amount of property tax that taxpayers would have paid under current law to replace the reimbursement revenue loss.

A few counties did not have enough retirement replacement funds to decrease for the property tax reductions in HB20 and SB417. In these cases, the remaining funds were removed from the countywide transportation fund. In fiscal year 2002, this was $15,193 for Fallon County. In fiscal year 2003, this totaled $39,585: Fallon County - $30,387; Powder River County - $2,228; and Wibaux County - $6,970.

Table 8 shows the countywide retirement payments by county for fiscal years 2002 and 2003.

Table 8
Countywide Elementary and High School Retirement Fund Payment
Fiscal Years 2002 and 2003

| County | FY2002 Elementary Payment | FY2002 High School Payment | FY2003 Elementary Payment | FY2003 High School Payment |
|---|---|---|---|---|
| Beaverhead | $ 79,524 | $ 46,590 | $ 56,456 | $ 33,075 |
| Big Horn | 84,300 | 49,723 | 53,376 | 31,483 |
| Blaine | 77,127 | 12,855 | 54,159 | 9,027 |
| Broadwater | - | 90,704 | - | 74,728 |
| Carbon | 41,780 | 78,951 | 33,604 | 63,502 |
| Carter | 8,020 | 4,485 | 3,578 | 2,001 |
| Cascade | 318,515 | 175,975 | 246,569 | 136,226 |
| Chouteau | 68,607 | 37,345 | 44,641 | 24,300 |
| Custer | 70,955 | 33,201 | 56,134 | 26,266 |
| Daniels | - | 32,011 | - | 9,330 |
| Dawson | 76,411 | 34,578 | 44,929 | 20,331 |
| Deer Lodge | 33,984 | 14,501 | 24,815 | 10,589 |
| Fallon | - | - | - | - |
| Fergus | 121,916 | 80,721 | 87,161 | 57,710 |
| Flathead | 515,681 | 273,508 | 412,097 | 218,569 |
| Gallatin | 365,227 | 173,294 | 296,634 | 140,748 |
| Garfield | 12,307 | 10,145 | 7,039 | 5,802 |
| Glacier | 87,523 | 37,250 | 62,747 | 26,706 |
| Golden Valley | - | 16,468 | - | 11,217 |
| Granite | 13,496 | 46,054 | 11,175 | 38,136 |
| Hill | 143,137 | 82,694 | 110,426 | 63,796 |
| Jefferson | 116,149 | 59,253 | 70,406 | 35,917 |
| Judith Basin | 4,986 | 17,320 | 2,469 | 8,576 |
| Lake | 181,672 | 146,513 | 165,791 | 133,705 |
| Lewis and Clark | 323,182 | 198,847 | 284,663 | 175,148 |
| Liberty | 15,172 | 12,644 | 5,346 | 4,455 |
| Lincoln | 71,717 | 97,096 | 46,820 | 63,390 |
| Madison | - | 95,578 | - | 76,391 |
| McCone | 18,007 | 12,275 | 4,870 | 3,320 |
| Meagher | 10,235 | 8,004 | 6,121 | 4,787 |
| Mineral | - | 28,464 | - | 14,680 |
| Missoula | 441,305 | 328,632 | 249,273 | 185,629 |
| Musselshell | 32,048 | 22,542 | 26,019 | 18,301 |
| Park | 148,347 | 78,599 | 130,012 | 68,885 |
| Petroleum | - | 16,321 | - | 12,718 |
| Phillips | 10,076 | 91,229 | 6,180 | 55,955 |
| Pondera | 75,863 | 57,328 | 55,669 | 42,067 |
| Powder River | 14,033 | 11,196 | - | - |
| Powell | 70,588 | 22,956 | 60,565 | 19,697 |
| Prairie | - | 25,278 | - | 15,297 |
| Ravalli | 79,401 | 157,967 | 68,030 | 135,346 |
| Richland | 69,774 | 25,269 | 12,991 | 4,705 |
| Roosevelt | 90,250 | 76,588 | 70,458 | 59,792 |
| Rosebud | 358,272 | 285,304 | 341,690 | 272,100 |
| Sanders | 199,496 | 124,959 | 191,505 | 119,954 |
| Sheridan | - | 47,398 | - | 3,201 |
| Silver Bow | 219,868 | 124,571 | 165,809 | 93,942 |
| Stillwater | 90,087 | 74,764 | 80,349 | 66,682 |
| Sweet Grass | 36,061 | 35,409 | 29,791 | 29,252 |
| Teton | 55,964 | 40,255 | 35,863 | 25,797 |
| Toole | 42,770 | 50,743 | 21,884 | 25,963 |
| Treasure | - | 17,022 | - | 10,408 |
| Valley | 16,878 | 96,562 | 10,952 | 62,661 |
| Wheatland | 19,019 | 10,989 | 13,011 | 7,518 |
| Wibaux | - | 8,363 | - | - |
| Yellowstone | 1,051,705 | 600,974 | 748,974 | 427,985 |
| **Total** | **$ 5,981,434** | **$ 4,438,265** | **$ 4,511,054** | **$ 3,287,761** |

## Countywide Transportation

The state will pay counties to replace the estimated revenue change based on fiscal year 2001 revenue estimates adjusted for HB540 being in effect a full year. This payment will be a dollar amount per county as shown in Table 9. The counties with an asterisk are adjusted for HB20 and SB417 reductions when there were insufficient replacement funds for the countywide retirement fund.

Table 9
Countywide Transportation Fund Payment Fiscal Years 2002 and 2003

| County | FY2002 Payment | FY2003 Payment | County | FY2002 Payment | FY2003 Payment |
|---|---|---|---|---|---|
| Beaverhead | $ 35,598 | $ 35,598 | McCone | $ 19,957 | $ 19,957 |
| Big Horn | 64,544 | 64,544 | Meagher | 6,187 | 6,187 |
| Blaine | 14,875 | 14,875 | Mineral | 9,337 | 9,337 |
| Broadwater | 17,390 | 17,390 | Missoula | 117,557 | 117,557 |
| Carbon | 28,800 | 28,800 | Musselshell | 17,890 | 17,890 |
| Carter | 9,984 | 9,984 | Park | 34,811 | 34,811 |
| Cascade | 94,250 | 94,250 | Petroleum | 10,855 | 10,855 |
| Chouteau | 38,675 | 38,675 | Phillips | 40,847 | 40,847 |
| Custer | 9,925 | 9,925 | Pondera | 29,051 | 29,051 |
| Daniels | 26,498 | 26,498 | Powder River * | 27,324 | 25,097 |
| Dawson | 28,737 | 28,737 | Powell | 19,178 | 19,178 |
| Deer Lodge | 15,750 | 15,750 | Prairie | 11,874 | 11,874 |
| Fallon* | 34,639 | 19,445 | Ravalli | 67,779 | 67,779 |
| Fergus | 71,072 | 71,072 | Richland | 61,206 | 61,206 |
| Flathead | 100,202 | 100,202 | Roosevelt | 36,279 | 36,279 |
| Gallatin | 93,938 | 93,938 | Rosebud | 101,425 | 101,425 |
| Garfield | 21,304 | 21,304 | Sanders | 74,991 | 74,991 |
| Glacier | 48,767 | 48,767 | Sheridan | 39,160 | 39,160 |
| Golden Valley | 4,901 | 4,901 | Silver Bow | 24,227 | 24,227 |
| Granite | 8,987 | 8,987 | Stillwater | 30,539 | 30,539 |
| Hill | 59,082 | 59,082 | Sweet Grass | 17,109 | 17,109 |
| Jefferson | 49,438 | 49,438 | Teton | 36,197 | 36,197 |
| Judith Basin | 22,102 | 22,102 | Toole | 23,561 | 23,561 |
| Lake | 79,943 | 79,943 | Treasure | 6,919 | 6,919 |
| Lewis and Clark | 63,614 | 63,614 | Valley | 35,692 | 35,692 |
| Liberty | 18,526 | 18,526 | Wheatland | 11,107 | 11,107 |
| Lincoln | 65,899 | 65,899 | Wibaux * | 9,925 | 2,955 |
| Madison | 26,223 | 26,223 | Yellowstone | 190,502 | 190,502 |

| Fiscal Year | Totals |
|---|---|
| 2002 | $2,265,148 |
| 2003 | $2,240,756 |

## STREAMLINING FEES AND STATE AGENCY CHANGES

The Local Government Funding and Structure Committee's recommendations with respect to changing the flow of funds between state and local governments has many significant implications for state government agencies. Many agencies currently administer programs that depend on earmarked funds from many of the revenue sources changed by the committee. Many of the changes are due to the recommendation whereby most motor vehicle revenue and most district court revenue will be deposited in the state general fund, but other changes also impact state agencies significantly.

This chapter of the report provides the details of the impacts that occur to state agencies. Separate sections are provided to summarize the streamlining of motor vehicle fees and district court revenue impact on each state agency.

### Streamlining Motor Vehicle Fees

Currently, there are many different motor vehicle fees used to fund a wide variety of state and local government programs. Most of these fees require collection at the county level with subsequent redistribution to state and county programs. In some cases, fees and taxes levied on motor vehicles and trailers require a complex and confusing distribution based on state and local mill levies. In addition to the basic fee in lieu of property tax, there are at least seven additional fees levied on motor vehicles at the time of registration, with the revenue from these individual fees earmarked for several different state programs.

The complexity in levying and distributing current law motor vehicle fees erodes accountability in the revenue system, and greatly complicates property tax revenue forecasting.

Part of the funding shifts recommended by the Local Government Funding and Structure Committee is to have all revenue from "motor vehicle" fees, except Gross Vehicle Weight (GVW) fees, and taxes deposited with the state. This would greatly simplify the distribution and allocation of revenues from these fees. In addition, the committee recommends that the complex web of several different fees paid at registration be combined into single flat fees, and also recommends that the number of flat fees applying to motor vehicles and trailers be kept to a minimum.

#### Current Law Vehicle Fees

This chapter provides a summary of the committee recommendations designed to simplify the number of vehicle fees, and flow and distribution of revenue from vehicle fees.

Table 10 shows the current law registration, titling and other fees paid by various types of light cars and trucks, and trailers. As that table shows, there are numerous fees applied to many different types of vehicles and trailers under current law. Revenue from different fees are earmarked and allocated to a variety of state and local government programs. Some of these programs include the junk vehicle program administered by the Department of Environmental Quality; the weed control program administered by the Department of Agriculture; a program for updating county computer systems; a motorcycle safety program administered by MSU-Northern; and a program for maintenance of state parks administered by the Department of Fish, Wildlife, and Parks.

Under the committee recommendations all revenue from motor vehicle fees would be deposited in the state general fund or agency fund. However, these agency programs would continue to receive funding based on Department of Justice counts of various vehicle types and the current law fee applied to fund each program.

**Table 10**
**Registration, License, Titling, New Plates, and Lien Filing Vehicle Fees**

| | Light Vehicles | | Trucks & Buses <1 Ton | | | Heavy | Motor | Motorcycles & |
|---|---|---|---|---|---|---|---|---|
| **REGISTRATION:** | <2850lbs | >2850lbs.^^ | 1/2 ton | 3/4 ton | 1 ton | > 1 Ton | Homes | Quadricycles |
| License or Decal | $5.00 | $10.00 | $10.00** | $10.00** | $10.00** | $10.00** | $10.00 | $2.00 |
| Registration | $5.25^ | $5.25^ | $5.25^ | $5.25^ | $5.25^ | $5.25^ | $5.25^ | $5.25 |
| Junk Vehicle (Registration) | $0.50 | $0.50 | $0.50 | $0.50 | $0.50 | $0.50 | $0.50 | $0.00 |
| Weed Control | $1.50 | $1.50 | $1.50 | $1.50 | $1.50 | $1.50 | $1.50 | $1.50 |
| Computer | $1.00 | $1.00 | $1.00 | $1.00 | $1.00 | $1.00 | $1.00 | $1.00 |
| Motorcycle Safety Fee | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $5.00 |
| State Parks Recreational Fee | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $3.50 | $0.00 |
| **SUB TOTAL:** | **$13.25** | **$18.25** | **$18.25** | **$18.25** | **$18.25** | **$18.25** | **$21.75** | **$14.75** |
| **TITLING:** | | | | | | | | |
| County Title | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 |
| Junk Vehicle Title | $1.50 | $1.50 | $1.50 | $1.50 | $1.50 | $0.00 | $0.00 | $0.00 |
| **SUB TOTAL:** | **$6.50** | **$6.50** | **$6.50** | **$6.50** | **$6.50** | **$5.00** | **$5.00** | **$5.00** |
| **OTHER:** | | | | | | | | |
| New Plates | $2.00 | $2.00 | $2.00 | $2.00 | $2.00 | $2.00 | $2.00 | $0.00 |
| Lien Filing | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 |
| **SUB TOTAL:** | **$6.00** | **$6.00** | **$6.00** | **$6.00** | **$6.00** | **$6.00** | **$6.00** | **$4.00** |

| | Trailers/Semitrailors | | | Travel | Pioneer/ Vintage | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **REGISTRATION:** | <2500lbs | >2500lbs. | >6000lbs. | Trailers | <2850lbs. | >2850lbs | OHV's | Snowmobiles | Boats | Campers |
| License or Decal | $2.00 | $5.00 | $10.00 | $2.00 | $0.00 | $0.00 | $5.00 | $5.00 | $2.50 | $1.00 |
| Registration | $5.25^ | $5.25^ | $5.25^ | $5.25^ | $5.00^ | $10.00^ | $2.00 | $0.50 | $0.00 | $0.00 |
| Junk Vehicle (Registration) | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Weed Control | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $1.00 | $0.00 | $0.00 | $0.00 |
| Computer | $1.00 | $1.00 | $1.00 | $1.00 | $0.00 | $0.00 | $1.00 | $1.00 | $1.00 | $0.00 |
| Motorcycle Safety Fee | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| State Parks Recreational Fee | $0.00 | $0.00 | $0.00 | $3.50 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $3.50 |
| **SUB TOTAL:** | **$8.25** | **$11.25** | **$16.25** | **$11.75** | **$5.00** | **$10.00** | **$9.00** | **$6.50** | **$3.50** | **$4.50** |
| **TITLING:** | | | | | | | | | | |
| County Title | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $5.00 | $0.00* | $5.00 | $5.00*** |
| Junk Vehicle Title | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| **SUB TOTAL:** | **$5.00** | **$5.00** | **$5.00** | **$5.00** | **$5.00** | **$5.00** | **$5.00** | **$0.00** | **$5.00** | **$5.00** |
| **OTHER:** | | | | | | | | | | |
| New Plates | $0.00 | $0.00 | $0.00 | $2.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 | $0.00 |
| Lien Filing | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $4.00 | $0.00 | $4.00 | $0.00 |
| **SUB TOTAL:** | **$4.00** | **$4.00** | **$4.00** | **$6.00** | **$4.00** | **$4.00** | **$4.00** | **$0.00** | **$4.00** | **$0.00** |

^Intrastate fleet vehicles pay an extra $2.25
^^this includes electrically driven passenger vehicles
** Logging Trucks pay $15 for License Fee
* if the snowmobile is only used on private land than they can get a title for $5.00 and do not have to pay for a decal
*** pay a $5 title fee if the camper's year is >1990

## Committee-Recommended Vehicle Fees

The committee recommends the following changes in registration, titling, and specialized license plate fees (including intrastate and interstate fleet vehicles):

- The number of registration fees drops from 15 different fees to 4 flat fees: $18 for road vehicles; $12 for all types of trailers; $10 for pioneer/vintage vehicles; and $6 for off-road recreational vehicles.
- Titling fees go from 2 fees ($6.50 and $5) to one flat fee of $6.
- Specialized license plate fees go from 6 fees to 2 flat fees. The 2 flat fees are $10 for vintage, HAM, and Veteran plates and $20 for collegiate and personalized plates.

Table 11 shows the current law and committee recommended registration and licensing fees, and specialized license plate vehicle fees, for each vehicle type.

**Table 11**
**Current and Proposed Vehicle Registration, Licensing, and Specialized License Plate Fees**

| | ------Registration and Licensing Fees------ | | |
|---|---|---|---|
| VEHICLE TYPE | Current | Proposed | Change |
| **ROAD VEHICLES** | | | |
| Light Vehicles | | | |
| under 2850lbs | $13 25 | $18 00 | $4 75 |
| over 2850lbs | $18 25 | $18.00 | ($0 25) |
| Trucks & Buses < 1 Ton | $18 25 | $18 00 | ($0 25) |
| Logging Trucks < 1 Ton | $23 25 | $18 00 | ($5 25) |
| Heavy Vehicles > 1 Ton | $18.25 | $18 00 | ($0 25) |
| Motor Homes | $21.75 | $18 00 | ($3.75) |
| Motorcycles & Quadricycles | $14 75 | $18.00 | $3 25 |
| **TRAILERS** | | | |
| Trailers/Semi-Trailers | | | |
| under 2500lbs | $8 25 | $12 00 | $3 75 |
| 2500-6000lbs | $11 25 | $12 00 | $0 75 |
| over 6000lbs. | $16 25 | $12 00 | ($4 25) |
| Travel Trailers | $11 75 | $12 00 | $0 25 |
| **PIONEER/VINTAGE VEHICLES** | | | |
| Pioneer/Vintage Vehicles | | | |
| under 2850lbs | $5.00 | $10 00 | $5 00 |
| over 2850lbs | $10.00 | $10 00 | $0 00 |
| **OFF-ROAD REC. VEHICLES** | | | |
| OHV's | $9 00 | $6.00 | ($3 00) |
| Snowmobiles | $6.50 | $6 00 | ($0 50) |
| Boats | $3.50 | $6.00 | $2.50 |
| Campers | $4 50 | $6 00 | $1 50 |
| **SPECIALIZED LICENSE PLATES** | | | |
| Personalized License Plate-original | $25 00 | $20.00 | ($5.00) |
| Personalized License Plate-renewal | $10.00 | $20 00 | $10 00 |
| Collegiate License Plate-original | $22 50 | $20 00 | ($2 50) |
| Collegiate License Plate-renewal | $20 00 | $20.00 | $0.00 |
| Pioneer/Vintage License Plate | | | |
| under 2,850 lbs. | $5 00* | $10 00* | $5 00 |
| over 2,850 lbs | $10 00* | $10.00* | $0.00 |
| HAM License Plate | $5 00 | $10 00 | $5.00 |
| Veteran/Purple Heart License Plate-original | $10 00 | $10.00 | $0 00 |
| Veteran/Purple Heart License Plate-renewal | $10 00 | $10 00 | $0 00 |

*the plate fee is included in the registration fee

## Distribution of Revenue - Current Law

Under current law, motor vehicle registration, titling, specialized license plate, and other fees are distributed to local governments, state special revenue accounts, and the state general fund as shown in Table 12.

**Table 12**
**Current Law Vehicle Fee Distributions**

| Description | Total | Loc Gov | State G F | DEQ | DofAg | FWP | High. Patrol | Military Affairs | MT St Prison Indust. Account | Scholar. Fund or Foundation | Mtrcle Safety Account |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **ROAD VEHICLES** | | | | | | | | | | | |
| Light Vehicles | | | | | | | | | | | |
| under 2850lbs | $13.25 | $5.05 | $6.00 | $0.50 | $1.46 | | $0.25 | | | | |
| over 2850lbs | $18.25 | $10.05 | $6.00 | $0.50 | $1.46 | | $0.25 | | | | |
| Trucks & Buses < 1 Ton | $18.25 | $10.05 | $6.00 | $0.50 | $1.46 | | $0.25 | | | | |
| Logging Trucks < 1 Ton | $23.25 | $15.05 | $6.00 | $0.50 | $1.46 | | $0.25 | | | | |
| Heavy Vehicles > 1 Ton | $18.25 | $10.05 | $6.00 | $0.50 | $1.46 | | $0.25 | | | | |
| Motor Homes | $21.75 | $10.05 | $6.00 | $0.50 | $1.46 | $3.50 | $0.25 | | | | |
| Motorcycles & Quadricycles | $14.75 | $2.05 | $6.00 | | $1.46 | | $0.25 | | | | $5.00 |
| **TRAILERS** | | | | | | | | | | | |
| Trailers/Semi-Trailers | | | | | | | | | | | |
| under 2500lbs. | $8.25 | $2.00 | $6.00 | | | | $0.25 | | | | |
| 2500-6000lbs. | $11.25 | $5.00 | $6.00 | | | | $0.25 | | | | |
| over 6000lbs. | $16.25 | $10.00 | $6.00 | | | | $0.25 | | | | |
| Travel Trailers | $11.75 | $2.00 | $6.00 | | | $3.50 | $0.25 | | | | |
| **PIONEER/VINTAGE VEHICLES** | | | | | | | | | | | |
| Pioneer/Vintage Vehicles | | | | | | | | | | | |
| under 2850lbs | $5.00 | | $5.00 | | | | | | | | |
| over 2850lbs | $10.00 | | $10.00 | | | | | | | | |
| **OFF-ROAD REC. VEHICLES** | | | | | | | | | | | |
| OHV's | $9.00 | | $3.00 | | $1.00 | $5.00 | | | | | |
| Snowmobiles | $6.50 | | $1.50 | | | $5.00 | | | | | |
| Boats | $3.50 | | $1.00 | | | $2.50 | | | | | |
| Campers | $4.50 | $1.00 | | | | $3.50 | | | | | |
| **TITLE** | | | | | | | | | | | |
| County Title | $5.00 | $1.50 | $3.50 | | | | | | | | |
| Junk Vehicle Title | $1.50 | | | $1.50 | | | | | | | |
| **SPECIALIZED LICENSE PLATES** | | | | | | | | | | | |
| Personalized License Plate-original | $25.00 | $5.00 | $20.00 | | | | | | | | |
| Personalized License Plate-renewal | $10.00 | $5.00 | $5.00 | | | | | | | | |
| Collegiate License Plate-original | $22.50 | | | | | | | | $2.50 | $20.00 | |
| Collegiate License Plate-renewal | $20.00 | | | | | | | | | $20.00 | |
| Pioneer/Vintage License Plate | | | | | | | | | | | |
| under 2,850 lbs. | $5.00* | | | | | | | | | | |
| over 2,850 lbs | $10.00* | | | | | | | | | | |
| HAM License Plate | $5.00 | | $5.00 | | | | | | | | |
| Veteran/Purple Heart License Plate-original | $10.00 | $3.00 | $1.00 | | | | | $6.00 | | | |
| Veteran/Purple Heart License Plate-renewal | $10.00 | | | | | | | $10.00 | | | |
| **OTHER** | | | | | | | | | | | |
| New Plates | $2.00 | | $2.00 | | | | | | | | |
| Lien Filing | $4.00 | | $4.00 | | | | | | | | |

*the plate fee is included in the registration fee

Intrastate fleet vehicles pay the same fees as non-fleet vehicles. Except for the registration fee, the Department of Transportation distributes all of these fees in the same manner shown in Table 12. Intrastate fleet vehicles pay a registration fee of $7.50. Of this amount, the Department of Transportation retains $4.50 and the remaining $3 is transferred to the state general fund.

Distribution of Revenue - Committee Recommendations

The committee recommends that all motor vehicle fees, except interstate fleet vehicle fees and $4.50 of the registration fee on intrastate fleet vehicles, be distributed to the state general fund or agency fund.

Currently, interstate fleet vehicle fees are collected by the Department of Transportation and are deposited with the state treasurer who then distributes the revenue to the local governments. The committee recommends that the Department of Transportation retain all interstate fleet vehicle fees currently distributed to local governments to offset, in part, the department's loss of revenue from committee recommendations shifting revenue from the new car sales tax to the state general fund. The Department of Transportation would continue to retain $4.50 of each registration fee paid by intrastate vehicles.

Continued Funding for Current Law Earmarked Accounts

As discussed earlier, many of the fees shown in Table 10 are earmarked to provide funding for various state agency programs as shown in Table 12. Under the committees' recommendations, these agency programs would no longer receive these earmarked funds, as all motor vehicle fees would be deposited in the state general fund except for the university collegiate plate revenues, which would be deposited in a agency fund.

To maintain funding for these programs, the committee recommends that each earmarked fund be replaced with a statutory general fund appropriation. The amount of the appropriation would be based on annual counts of various vehicle types provided by the Motor Vehicle Division of the Department of Justice. These vehicle counts, multiplied by the current law earmarked fee amount, would provide the basis for the amount of the appropriation provided.

Under current law, the Department of Fish, Wildlife, and Parks receives 20% of the fees in lieu of tax collected on watercraft. This allocation is scheduled to sunset July 1, 2002. The committee recommends that this sunset date be moved to June 30, 2001, with the revenue deposited in the state general fund after that date.

**Streamlining District Court Fees**

The following list is a summary of fees collected by the clerk of district court:

- Actions Commenced
- Adoptions
- Appearances
- Authentifications/Exemplifications
- Certifications
- Copies
- Dissolution/Legal Separation
- Executions/Orders of Sale
- Foreign Judgments
- Foreign Probates
- Intervenors
- Judgments/Transcripts/Confessions
- Marriages
- Notarization (Oath & Jurat)
- Parenting Plan (Contesting Action)
- Probates/Guardianships/Conservatorships
- Process Servers
- Searches
- Substitution of Judge
- Transfers
- Transcript of Judgment

The fees listed above can consist of three separate components: filing fees, court reporter fees, and user surcharge fees. For example, an action-commenced fee is $115, of which $90 is for a filing fee, $20 is for a court reporter fee, and $5 is for a user surcharge fee.

Distribution of Revenue - Current Law

Table 13 on the next page shows the current law distributions of the fees collected by the district courts. Under current law there are eight accounts that receive revenue from fees collected by the district courts. They are the district court fund, county general fund, state general fund, and five state special revenue accounts. The five state special revenue accounts are the child abuse/neglect, civil legal assistance, assault intervention/treatment, adoption service, and court information technology accounts.

| Description | Fees | Dstr. Crt. Fund | Cty. G.F. | State G.F. | Chld Abs & Neglect | Cvl. Lgl. Assist. | Aslt & Intrv. & Treat. | Adop. Serv. | Crt. Info. Tech. |
|---|---|---|---|---|---|---|---|---|---|
| **Table 13** | | | | | | | | | |
| **Distribution of Fees Collected by District Courts** | | | | | | | | | |
| **Foreign Judgments** | **$85.00** | | | | | | | | |
| Filing Fee | $60 00 | 32% | | 68% | | | | | |
| Court Reporter Fee | $20.00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| Dock . Transcr | $45.00 | 32% | | 68% | | | | | |
| **Actions Commenced** | **$115.00** | | | | | | | | |
| Filing Fee | $90 00 | 49% | | 41% | | 10% | | | |
| Court Reporter | $20.00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| **Adoptions** | **$100.00** | | | | | | | | |
| Filing Fee | $75 00 | 7% | | | | | | 93% | |
| Court Reporter Fee | $20.00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| **Dissol./Legal Sep.** | **$185/$175** | | | | | | | | |
| Filing Fee | $160/$150 | 13%/14% | | 59%/63% | 3%/3% | 6%/0% | 19%/20% | | |
| Court Reporter | $20 00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| **Foreign Probates** | **$80.00** | | | | | | | | |
| Filing Fee | $55 00 | 20% | | 80% | | | | | |
| Court Reporter Fee | $20 00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| **Marriages** | **$30.25** | | | | | | | | |
| License issuance Fee | $30 00 | | 21% | 79% | | | | | |
| Marg w/o Solem. | $30 00 | | 21% | 79% | | | | | |
| Recording Fee | $0 25 | 100% | | | | | | | |
| **Prob./Guard./Conser.** | **$95.00** | | | | | | | | |
| Filing Fee | $70 00 | 37% | | 63% | | | | | |
| Court Reporter | $20 00 | 100% | | | | | | | |
| User Surcharge | $5 00 | | | | | | | | 100% |
| **Appearances** | **$65.00** | | | | | | | | |
| Filing Fee | $60 00 | 50% | | 50% | | | | | |
| User Surcharge | $5.00 | | | | | | | | 100% |
| **Transfers** | | | | | | | | | |
| Incoming | $10 00 | 32% | | 68% | | | | | |
| Outgoing | $5 00 | 32% | | 68% | | | | | |
| **Authentif./Exemplifi.** | **$6.00** | 100% | | | | | | | |
| **Certifications** | **$2.00** | 100% | | | | | | | |
| **Copies** | **$0.50 1st 5 $0.25 addit.** | 100% | | | | | | | |
| **Exec./Orders of Sale** | **$5.00** | 100% | | | | | | | |
| **Intervenors** | **$80.00** | 54% | | 46% | | | | | |
| **Judg./Transc./Conf.** | **$45.00** | 40% | | 60% | | | | | |
| **Notar.(Oath & Jurat)** | **$1.00** | 100% | | | | | | | |
| **Parent. Plan** | **$120.00** | 100% | | | | | | | |
| **Process Servers** | **$100.00** | 100% | | | | | | | |
| **Searches** | **$0.50/$25** | 100% | | | | | | | |
| **Substitution of Judge** | **$100.00** | | | 100% | | | | | |
| **Transc. of Judgment** | **$4.00** | 100% | | | | | | | |

## Distribution of Revenue - Committee Recommendations

The Court Funding and Structure Committee has recommended district courts, except clerk of district courts and their staff, become a part of the judicial branch. At its July meeting the Local Government Funding and Structure Committee recommended that all district court fees, fines, and forfeitures be deposited in the state general fund.

Program Impact by Revenue Distribution Change

The state special revenue accounts used for state programs (adoption service, child abuse/neglect, civil legal assistance, and assault intervention/treatment), local government district court accounts, and county general funds will no longer have earmarked district court fees as a revenue source. However, each of the state special revenue accounts will have a general fund statutory appropriation to replace the revenue.

## State Agency Changes

Table 14 shows the impacts on state government agencies, except for district courts, from the proposed funding shifts.

**Table 14**
**Impacts of Funding Shifts on State Agencies**
**State General Fund Appropriation Required**

| | State Agency | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Funding Shift Item** | **FWP** | **DOAg** | **DEQ** | **DOMA** | **DOT** | **Higher Ed** | **PERD** | **DPHHS** |
| Snowmobile Fees | (66,217) | | | | | | | |
| Boat Registration/Hull Fees | (126,054) | | | | | | | |
| Off-Highway Vehicle Fees | (97,418) | | | | | | | |
| Parks Recreational Veh Fees | (196,994) | | | | | | | |
| Vehicle Weed Fee | | (1,319,670) | | | | | | |
| Junk Vehicle Fees | | | (687,055) | | | | | |
| Veteran's License Plates | | | | (111,968) | | | | |
| New Car Sales Tax | | | | | (7,809,521) | | | |
| IRP (Fleet Vehicle) Fees | | | | | 4,221,356 | | | |
| Motorcycle Safety Fee | | | | | | (118,466) | | |
| Non-Levy Revenue - 6 Mills | | | | | | (194,088) | | |
| Highway Patrol Retirement | | | | | | | (265,890) | |
| Montana Adoption Act Program | | | | | | | | (30,384) |
| Adult Intervention/Treatment | | | | | | | | (148 124) |
| Child Abuse/Neglect | | | | | | | | (23,218) |
| Welfare Funding | | | | | | | | (13,959 884) |
| **Total Funding Shifts** | **(486,683)** | **(1,319,670)** | **(687,055)** | **(111,968)** | **(3,588,165)** | **(312,554)** | **(268,890)** | **(14,161,610)** |
| State GF Approp Provided | YES | YES | YES | YES | YES | YES | YES | YES |
| Appropriation Amount | 486,683 | 1,319,670 | 687,055 | 111 968 | 3,588,165 | 312,554 | 268,890 | 14 161,610 |
| **Net Impact on State Agency** | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

For the most part, state agencies lose earmarked revenues from certain vehicle fees when these fees are deposited in the state general fund. This is the case for the Departments of Fish, Wildlife, and Parks (FWP), Agriculture (DOAg), Environmental Quality (DEQ), Military Affairs (DOMA), Higher Education, and the Public Employees Retirement Division (PERD). Higher education also loses non-levy vehicle revenue when this revenue is deposited in the state general fund and is no longer distributed by the counties on the basis of mills. The Department of Transportation (DOT) loses $7.8 million under the option of depositing the new car sales tax in the state general fund; but recoups $4.2 million of this by retaining all fees and taxes associated with fleet (IRP) vehicles.

Under the proposal all district court fees would be deposited in the state general fund. The Department of Public Health and Human Services (DPHHS) would lose revenue from certain court fees currently allocated to the Montana Adoption Act Program, the Adult Intervention and Treatment Program, and the Children's Trust Fund Account, for use in treating child abuse and neglect. DPHHS also loses nearly $14 million in revenue from property taxes currently levied for county welfare programs, under the proposal that the state provide general funding of welfare programs statewide.

Table 14 also shows that a state general fund appropriation is recommended by the committee to maintain current funding levels for these programs. The total amount of state general fund appropriation required to maintain current agency budgets based on committee recommendations to date is $21 million. This appropriation is included in the bottom line general fund impacts shown earlier in Table 3.

Other State Agency Impacts

There are three other changes impacting funding of state agencies. Two of these changes relate to revenue allocations that are scheduled to sunset under current law and the third relates to district court changes.

First, currently 20% of fees in lieu of tax on certain boats is allocated to the Department of Fish, Wildlife and Parks for improvement of boating facilities and to help cover the cost of the Boating Advisory Council. Under current law, this allocation, which totaled $285,500 in fiscal 2000, is scheduled to sunset June 30, 2002. The committee has recommended that this surcharge sunset on June 30, 2001.

Second, currently $1 of the sales tax, approximately $30,000 a year, on each new car is deposited into an account to the credit of the Department of Commerce for administration of the "lemon laws" of the state. This is slated to sunset December 31, 2000 if HB540 is approved by the electorate this November. Under the committee assumption that HB540 will pass, this fee would sunset under existing law. Under committee recommendations, all of the revenue from the new car sales tax is to be deposited in the state general fund.

The above narrative does not address transferring district court costs to the Montana Supreme Court, as the district court change is more than just a funding change. However, in this analysis the financial impacts are accounted for. The fiscal 2001 cost to fully fund district courts is $20.8 million. Of this amount, county governments net financial responsibilities are reduced $12.7 million. About $6.2 million of motor vehicle funds come to the state under current law and are distributed back to county government for district courts; the state will retained these funds. Finally, $1.9 million in district court fees, fines, and forfeitures would be deposited in the state general fund.

Department of Fish, Wildlife and Parks (FWP)

Under current law, FWP receives revenue from several different earmarked sources related to motor vehicles. These sources are shown in Table 15.

Table 15
FWP Motor Vehicle Revenue Sources

| Revenue Source | General Fund | FWP |
|---|---|---|
| FWP Snowmobile Decal Fee ($5), Duplicate Decal Fee ($1) | $ 59,477 | $ (59,477) |
| Snowmobile Registration Fee ($.50) | 6,740 | (6,740) |
| FWP Motor Boat – 20% of Fee In Lieu of Tax | 297,127 | (297,127) |
| Boat License Decals - FWP | 126,018 | (126,018) |
| Duplicate Boat Decal - FWP | 36 | (36) |
| Off Hwy Decal Fee - FWP | 96,951 | (96,951) |
| Off Hwy Duplicate Decal - FWP | 467 | (467) |
| Parks Recreational Vehicle Fee (campers, motor homes, travel trailers) - FWP | 196,994 | (196,994) |
| Earmarked Revenue Change to FWP | $ 783,810 | $ (783,810) |
| General Fund Statutory Appropriation To FWP | (486,683) | 486,683 |
| Revenue Change to FWP | $ 297,127 | $ (297,127) |

Revenue from these fees totaled $783,810 in fiscal 1999. Under the committee recommendations, all of the revenue from motor vehicle fees would be deposited in the state general fund. To maintain funding for the accounts shown in Table 15, the committee recommends that FWP be provided with a statutory state general fund appropriation based on an established base year amount that would increase by 1.5% each year.

Currently, 20% of fees in lieu of tax on certain boats is allocated to the FWP for improvement of boating facilities and to help cover the cost of the Boating Advisory Council. Under current law, this allocation, which totaled $297,127 in fiscal 1999, is scheduled to sunset June 30, 2002. The committee has recommended that this allocation instead sunset on June 30, 2001. The total general fund statutory appropriation would not include these funds, which would otherwise be available to FWP only for fiscal 2002.

The state makes PILT payments on land owned by the Department of Fish, Wildlife and Parks. Payments may not be made to any county in which the department owns less than 100 acres. These payments may be used to fund school districts, or the county's general fund. The total amount distributed to counties over the past two years has been about $300,000. It is recommended that the state retain these funds by having FWP deposit them directly to the general fund.

Department of Agriculture

Under current law, light cars and trucks, heavy trucks, motor homes, and motorcycles and quadricycles all pay a fee of $1.50 at the time of registration with the revenue earmarked to provide funding for the weed control program in the Department of Agriculture. Off-highway vehicles pay a fee of $1.00 for this program. The weed fees are estimated to total $1,319,670 in fiscal 2001.

Under the committee's recommendations, all motor vehicle fees would be deposited in the state general fund. To ensure continued viability of the weed control program, the committee recommended that the Department of Agriculture be provided with a statutory state general fund appropriation based on an established base year amount that would increase by 1.5% each year.

Department of Environmental Quality

Under current law, light cars and trucks, heavy trucks, and motor homes all pay a fee of $0.50 at the time of registration with the revenue earmarked to provide funding for the junk vehicle program administered by the Department of Environmental Quality. In addition, light cars and trucks pay a fee of $1.50 for this program at the time they are titled.

Under the committee's recommendations, all motor vehicle fees would be deposited in the state general fund. To ensure continued viability of the junk vehicle program, the committee recommends that the Department of Environmental Quality be provided with a statutory state general fund appropriation based on an established base year amount that would increase by 1.5% each year.

In fiscal 1999, revenue from the junk vehicle fee applied to vehicle registrations totaled $396,262; the revenue from the fee applied to titles totaled $290,793. Total revenue was $687,055.

Department of Military Affairs

Under current law there is a $10 fee applied to the issuance of an original or renewal of a veteran/purple heart license plate. The renewal fee (and $6 of the original issuance fee) is earmarked for deposit in the state veteran's cemetery state special revenue account. In fiscal 1999, revenue to this account totaled $111,968.

Under the committee's recommendations, all of this revenue would be deposited in the state general fund. To maintain current level funding for the state veteran's cemetery program, the committee recommends that the account be provided with a statutory state general fund appropriation each year based on an established base year amount that would increase by 1.5% each year.

Department of Transportation

Under current law, revenue from the sales tax on new cars is distributed 5% to the counties for the costs associated with collection of the tax, and 95% to the DOT for deposit in the state highway account.

Also under current law, the registration fees and the flat fees in lieu of property taxes paid by large trucks operating in interstate commerce (IRP vehicles) are collected by DOT, for subsequent distribution to local governments.

The committee has recommended that all of the revenue from the new car sales tax be deposited in the state general fund. The committee has assumed that HB540, which will change the current law taxes on light cars and trucks from 1.4% of depreciated MSRP to a flat fee system, will be approved by the electorate in November of 2000. Passage of HB540 will reduce revenue from new cars to $7.8 million.

To replace this revenue, the committee recommends that DOT be allowed to retain the registration and fees in lieu of tax levied on IRP vehicles. These fees combined total approximately $4.2 million. The committee also recommends that the balance of $3.6 million be provided to DOT through a state statutory general fund appropriation.

Commissioner of Higher Education

Under current law, a $5.00 fee levied on motorcycles and quadricycles at the time of registration is earmarked for a motorcycle safety program administered at MSU-Northern. In addition, $20 of the $22.50 fee for issuance of an original collegiate license plate, and the entire $20 fee for renewals of collegiate license plates is deposited to the credit of a higher education scholarship fund or foundation.

Under the committee recommendations, all of the revenue from these fees would be deposited to the state general fund or for the collegiate plates to an agency fund. To keep the motorcycle safety program funded, and to continue funding for the higher education scholarship and foundation programs, the committee recommends that each year the Office of Higher Education be provided with a statutory state general fund appropriation based on an established base year amount that would increase by 1.5% each year to maintain funding for the motorcycle safety program. They would also receive funding for the collegiate license plates issued to maintain the scholarship programs. This revenue would be in the agency fund.

The committee recommended changes to many revenue sources identified as being "non-levy revenues". These sources–including natural resource revenues, the basic fee in lieu of property tax on motor vehicles, and the tax on financial institutions–are distributed on the basis of relative mill levies, including the 6-mill levy for the university system. The committee recommends these non-levy revenue sources be retained by the state and deposited in the state general fund. This results in reduced allocations of non-levy revenue to the university 6-mill account. Allocations to this account under these recommendations are anticipated to decrease by $194,088 based on fiscal year 1999 data. The committee has made no recommendations to replace this revenue other than through the normal appropriation program.

Department of Administration/PERD

Under current law, $0.25 of the $5.25 registration fee paid by light cars and trucks; heavy trucks; motor homes; motorcycles and quadricycles; and trailers, semitrailers, and travel trailers is earmarked for deposit in the highway patrol retirement account administered by the Public Employees Retirement Division. Revenue from this source totaled $268,890 in fiscal 1999.

Under the committee's recommendations, this revenue would be deposited in the state general fund. To maintain current level funding for the highway patrol retirement account, the committee recommends that the account be provided with a statutory state general fund appropriation each year in an amount equal to what the program would receive under current law.

Under current law, there is a general fund appropriation of $48,000 for the Department of Administration to pay up to $40 per headstone in the veteran's headstone program. This general fund appropriation is used to offset credits taken by the county on the county collection report for costs the county paid for the headstone program above $30. The committee recommends the Department of Administration no longer pay part of the cost of the headstone program, which would eliminate the general fund appropriation of $48,000. Under this recommendation the statute revision would state that $70 from the county budget be used to insure that the family does not have to make up the difference.

Department of Public Health and Human Services

Under current law, $70 of the $75 petition for adoption fee is earmarked for deposit in a state special revenue account to the credit of the "Montana Adoption Act Program". The current law fee for dissolution of marriage is $150. Of this amount,

$5 is earmarked for deposit in the Child Abuse and Neglect Program account, and $30 is earmarked for deposit in the Adult Intervention and Treatment Program account. All of the above programs are administered by DPHHS.

Under committee recommendations, all of the revenue from the petition for adoption fee and the dissolution of marriage fee would be deposited in the state general fund to help pay for the state's assuming all district court costs.

To maintain current level funding for these programs, the committee has recommended that DPHHS receive a statutory general fund appropriation for the Montana Adoption Act. The department and the committee agreed that a general fund appropriation through the normal budget process would be requested by the DPHHS for the Adult Intervention and Treatment programs and the Child/Abuse and Neglect program.

DPHHS also receives about $14 million annually from the counties where the state has assumed responsibility for the welfare program. Under the committee's recommendations, the state will assume full responsibility for funding welfare programs, with the funding provided through the state general fund.

<u>Department of Corrections</u>

The Department of Corrections receives a nominal amount of revenue from a "manufacturing fee" placed on new collegiate license plates. In fiscal 1999, this amount was $7,655. These fees will now be deposited in the state general fund, and the Department of Corrections will ask for additional general funding in a like amount.

<u>Department of Natural Resources and Conservation</u>

Payments in lieu of taxes (PILTS) are made by the state to the counties instead of paying property taxes on state owned land and parks. Payments are made to counties that have state lands in excess of 6% of the total land area of the county, and from which the state derives grazing, agricultural, or forest income. The money is distributed 60% to elementary school districts based on each district's relative share of land, and 40% to the county road fund. The total amount distributed to local governments is about $560,000 annually.

PILT payments have been used in part to fund school districts prior to development of the guaranteed tax base payment program currently used to equalize funding of schools. Further, the state has assumed responsibility for maintaining many of the roads and highways previously maintained by local governments. For these reasons, and for simplification, it is recommended that these funds be retained by the state.

**State Revenue Collection Changes**

There are four state taxes/fees that are collected by the county which are recommended to be collected directly by the state through the Department of Revenue centralized revenue and debt collection process. These revenues are the state inheritance and escheated estate tax, the hail insurance premium, the livestock per capita fee, and the forester's fire protection fee.

<u>Inheritance Tax/Escheated Estates</u>

An inheritance tax is levied on property received from an ancestor or other persons by legal succession or will. Escheated estates are created when an individual leaves an estate with no heirs or claimants. The assets from the settlement of the estate are placed in a trust fund for five years. If no claims are made on the estate after five years, the assets are sold and the funds are deposited into the public school expendable trust fund. As a service to the taxpayer, the county treasurer collects some of this revenue at the county level and transfers it to the state. As of July 1, 2001, the Department of Revenue will have the system to collect these state taxes at either the county or the state level.

<u>State Fees on the Property Tax Bill</u>

There are three state fees on the property tax bill. These are the livestock per capita fees, the hail insurance premium, and the forester's fire protection fee. The committee recommends that the state collect this state revenue. This can be done through the Department of Revenue centralized collection service. The department will bill these customers directly and the payments can be made at either the Department of Revenue county office or Helena. Under the process established for the state centralization of collection services, the Department of Revenue has the authority to levy liens on overdue payments. This is an important feature of the centralized collection process because when these fees were on the property tax bill, there was a lien when the bills were not paid. The state agencies participating in this change were concerned that the ability to file liens and eventually collect the revenue due would continue.

The Department of Revenue charges for the collection services. In the 2003 biennium, the Department of Livestock and Agriculture collection fees will be equal to their current costs. For the Department of Natural Resources (DNRC) there will be an administrative fee beginning July 1, 2003. This is a new cost since DNRC has not been paying for collection services. The fee charged is to cover the cost of providing the service. By the Department of Revenue combining the billing for these three fees, there will be economies of scale once the initial system is established.

## DISTRICT COURT REVENUE AND COST CHANGES

Under recommendations developed by the Court Funding and Structure Committee, the state is to assume responsibility for funding district courts, except for clerks of court. This is expected to increase state expenditures by $20.9 million per year based on fiscal 1991 costs. However, the state will receive $6.2 million in revenue from motor vehicles that currently goes to district courts, and approximately $1.9 million in fees related to district court funding. This results in a net new state general fund expenditure requirement of $12.8 million. Similarly, county governments are relieved of a $20.9 million of expenditure responsibility for the district courts, but no longer will receive the above revenue sources of $8.1 million. The result is that counties will have revenue of $12.8 million available for programs to support programs other than the district courts.

This chapter will explain how the district court costs were determined by the Court Funding and Structure Committee.

### District Court Expenditures

To determine the expenditures which need to be funded by the state, a fiscal 1999 district court expenditure survey was done. Of the total expenditure of $25,935,624 reported in the survey, $640,640 was spent on expenses that would not be paid or reimbursed if the state assumes all district court funding. These expenses include fixed charges of $256,796, debt service of $75,234, grants and contributions of $128,194, other objects of $48,594, and capital outlay of $131,822.

Of the remaining expenses, which will be state funded, there are three main categories. The main categories are personal services, purchased services, and supplies and equipment. Table 16 shows the percent of the budget related to these three categories and includes the items mentioned above that the state would not fund.

**Table 16**
**District Court Expenditure - Fiscal 1999 Survey**

| Expenditure | Dollars | Percent |
|---|---|---|
| Personal Services | $ 16,059,357 | 68.44% |
| Purchased Services | 6,311,648 | 26.90% |
| Supplies & Equipment | 453,205 | 1.93% |
| Non Reimbursed Items | 640,640 | 2.73% |
| Sub-Total | $ 23,464,850 | 100.00% |
| Non Reporting Counties | $ 2,470,844 | 0.00% |
| **Total** | **$ 25,935,694** | **100%** |

From the survey, it was reported that $16,059,357, or 68.43%, was the expense from personal services. Personal services includes salary and wages, benefits, overtime, and other expense for personal services.

Another expense category reported on the survey that the state would assume is purchased services. Purchased services include, predominantly, professional services. It also includes amounts for training, travel, and utilities. Purchased services account for $6,311,648 of the reported expense, or 26.90% of the total reported amount.

The survey also included information on supplies and equipment, which includes office supplies, operating supplies, repair and maintenance expenses, and equipment. The survey indicated that $453,205 was spent on this category and that represents 1.93% of the reported total. The remaining percentage is due to the non-reimbursed items mentioned in the first paragraph.

The percentages in Table 16 are applied to the fiscal 1998 BARS information. Table 17 illustrates the base budget amounts that will be allotted to each of the three main categories. For district courts, the base expenditure level for state funding is $24,898,383. This is total fiscal 1998 expenditures less non-reimbursables and grants. Grants received by the district court can be added by budget amendment and are, therefore, removed from the expenditure base. The two known grants are a Yellowstone County grant to the Youth Services Center of $833,597, and a Crime Control grant of $219,456.

**Table 17**
**District Court Expenditure - Fiscal 1998 Base Amounts**

| Expense Category | Percent | Fiscal 1998 Base |
|---|---|---|
| Personal Services | 68.43% | $17,040,453 |
| Purchased Services | 26.90% | 6,697,665 |
| Supplies & Equipment | 1.93% | 480,539 |
| Sub-Total | 97.26% | $24,218,657 |
| Non-Reimbursed Items | 2.73% | $ 679,726 |
| **Total FY98 Expenditure** | **100.00%** | **$24,898,383** |

### Clerk of the District Court

The Court Funding and Structure Committee decided that the clerks of the district court and staff would remain as county employees. Based on the fiscal 1999 information returned in the survey, the clerks of the district court office expenditures were $5,331,746. These costs need to be removed from the base district court cost, as they will not be assumed by the state. Thus, the cost of $18.9 million as shown in Table 18 is the fiscal 1998 district court costs base that would transfer to the state.

**Table 18**
**District Court Costs - Transferred To State**
**Fiscal 1998 Base**

| Expenditure | Total District Court | Clerk of Court | Costs Transferred to State |
|---|---|---|---|
| Personal Services | $ 17,040,453 | $ (5,070,061) | $ 11,970,392 |
| Purchased Services | 6,697,665 | | 6,697,665 |
| Supplies and Equipment | 480,539 | (261,685) | 218,854 |
| **Total** | **$ 24,218,657** | **$ (5,331,746)** | **$ 18,886,911** |

Pay and Inflation Adjustment

To accurately estimate the expenses associated with district court operations in the 2003 biennium, pay and inflation adjustments must be made to the base fiscal 1998 available expense information.

For personal services and purchased services, which are predominantly purchased professional services, the projected increase in state spending for employee compensation has been used. Based on information received from the Governor's Budget Office the increase for fiscal years 1999, 2000 and 2001 is 3%, respectively. This payroll adjustment is based on the current pay plan contained in House Bill 13 and is expected to continue into the next biennium.

For supplies and equipment, the price index for state and local government non-compensation items was obtained from the June 2000 Government Consumption and Gross Investment Report published by the Wharton Economic Forecasting Association (WEFA). The estimated inflation price index for fiscal 1999 is 2.1%, for fiscal 2000 it is 6.2%, for fiscal 2001 it is 1.3%, for fiscal 2002 it is 0.6%, and for fiscal 2003 it is 0.4%.

Transition Adjustment

A recommendation of the committee was that a transition amount of 5% of the personal service amount be allowed for the fiscal year beginning July 1, 2002. As reported to the committee in the Transition Issues report at the April meeting, "No employee would lose salary as a result of the change to state employment. New salary levels would be effective after completion of the classification and pay plan work. Employees being paid below the proper classification in the pay plan would receive an increase (and a contingency fund should be included in an appropriation for this purpose). Employees being paid above the proper classification would continue to receive their current pay until legislatively enacted pay raises exceed their current pay. At that point, these employees would begin receiving legislatively appropriated pay increases." The transition amount will be used to ensure that there are sufficient funds available to place the employees of the district court operations in the correct state pay band. The 5% transition amount of $693,848 for personal services is for fiscal 2003 only.

At the April meeting the committee recommended that 5% of the total budget would be added for equipment in the 2003 biennium. The allowance of $1,062,645 for fiscal 2002 and $1,094,210 for fiscal 2003 is to ensure that sufficient funds are available for offices to purchase necessary equipment to operate efficiently. The transition amount for equipment is for both years of the 2003 biennium.

**New District Judge Staff Expenses**

The passage of SB273 created a new 22nd Judicial District. SB273 also added new judges in the 11th and 20th Judicial Districts.

Based on information provided by the Supreme Court Administrator, an additional $213,000 will be needed to staff and supply the three new district court judges in fiscal 2001. This amount includes the salary for three court reporters, three secretaries, office supplies and legal subscriptions that, under current district court funding, is paid by local governments. Based on the state pay plan as outlined above and the WEFA estimated price index of non-compensation items, the estimated costs that would be paid by the state would be $218,670 in fiscal 2002, and $224,445 in fiscal 2003. The staff and expenses are shown in the following table.

| Table 19<br>New District Court Judge Expense | | | |
|---|---|---|---|
| Expense | Fiscal 2001 | Fiscal 2002 | Fiscal 2003 |
| Court Reporters (3) | $ 105,000 | $ 108,150 | $ 111,395 |
| Court Secretary (3) | 78,000 | 80,340 | 82,750 |
| Office Supplies/Subscriptions | 30,000 | 30,180 | 30,301 |
| **Total** | **$ 213,000** | **$ 218,670** | **$ 224,445** |

### Judicial Branch Administrative Costs

In reviewing the costs of additional personnel in the judicial branch of government to make the transition and to administer the district court program on a statewide basis, the committee asked the court administrator to work with the Office of Budget and Program Planning (OBPP) to refine the administrative cost. The committee approved a district court administrator, a support staff, and 6.5 full-time equivalent (FTE) employees for human resources, accounting, budgeting and payroll functions. These 6.5 FTE were based on what personnel were available to agencies of similar size as the number of FTE which will be assumed by the judicial branch with the transfer of the district courts.

### Cost Summary

All district court operation expenses have been detailed in this report. The following table is a compilation of the information presented in the report.

| Table 20<br>Summary of State Costs for District Courts | | | |
|---|---|---|---|
| | Fiscal 2001 | Fiscal 2002 | Fiscal 2003 |
| Current Level - Expenditures | | | |
| Personal Services | $ 13,080,371 | $ 13,472,782 | $ 13,876,966 |
| Purchased Services | 7,318,719 | 7,538,281 | 7,764,429 |
| Supplies & Equipment | 240,389 | 241,831 | 242,799 |
| New Judges Staff Costs | 213,000 | 218,670 | 224,445 |
| Total Current Level Expenditures | $ 20,852,479 | $ 21,471,564 | $ 22,108,639 |
| New Costs - Expenditures | | | |
| Salary Transition | $ - | $ - | $ 693,848 |
| Equipment Transition | - | 1,062,645 | 1,094,210 |
| Judicial Administrative Costs | - | 596,438 | 550,938 |
| Total New Costs Expenditures | $ - | $ 1,659,083 | $ 2,338,996 |
| **Total Recommended Budget** | **$ 20,852,479** | **$ 23,130,647** | **$ 24,447,634** |

Revenue

If the state assumes all district court operations, some of these revenues would be remitted to the state to offset the expense incurred by the state. Among those that would be remitted to the state would be district court fees of $1,706,941. District court fees include filing fees for the transactions that occur within the clerk of the court offices. Miscellaneous revenue includes portions of airplane registration fees, corporate license taxes, miscellaneous grants, contributions, and other revenues. It is estimated that the state would retain $200,000 of these revenues for use in funding district court operations. In total, the state would receive $1,906,941 from these revenue sources. Since the majority of this income is derived from fees that are fixed in law, there is no growth adjustment made for the 2003 biennium.

Under HB540, there is $6.2 million of vehicle fees which are used for district court expenditures. These vehicle fees are transferred to the Judiciary Branch and then used to fund district court expenditures. Under the proposed change, these funds will be deposited into the state general fund and used to fund the states assumed cost of district courts.

**Summary**

The committee decided to transfer district courts, except the clerk of district court, to the state judiciary branch of government. The counties have stated that they will provide office space for the district courts at no cost. Three additional budget items are recommended and they include a 5% salary pool to bring all employees up to appropriate pay levels; a 5% equipment budget so that adequate equipment can be provided to the court system; and additional administrative personnel to do the personnel and financial processing. The state general fund cost will be $23,130,647 in fiscal 2002, and $24,447,634 in fiscal 2003. The funding transfers being proposed by the Local Government Structure and Funding Committee will offset all of this cost, except the additional items. Thus, the net cost to the state general fund is $1,659,083 for fiscal 2002, and $2,338,996 for fiscal 2003, for a biennial cost of $3,998,078.

## WELFARE CHANGE

Montana currently funds its welfare and foster care programs with a combination of federal, state and local funds. These local funds are used for Families Achieving Independence in Montana (FAIM) cash benefits, administrative costs for FAIM, food stamps, Medicaid, foster care benefits and foster care administrative costs.

In 1983 twelve Montana counties switched from paying the costs not covered by state or federal funds, to providing nine mills to the state in exchange for the state being responsible for the cost and administration of these programs. These counties are known as state assumed counties. There are currently thirteen state assumed counties.

Since 1983 the statutes addressing how counties participate in the funding of human services have been amended several times. Caps have been placed on some costs, other costs have been assumed by the state. Statutory changes in taxing authority, such as I-105, have limited the ability of counties to adjust to changing costs. The assumed/non-assumed system has grown increasingly complex.

In 1999 the Montana legislature included language in HB2 directing the Department of Public Health and Human Services to submit a plan to the 57th legislature to replace the current system of county funding for human services. In language remarkably similar to the language in SB184, the department was directed to develop a plan to "create a uniform statewide system of funding. This plan must provide a predictable and adequate source of funding and eliminate the historic distinction in funding human services costs between assumed and non-assumed counties."

### Current County Contributions

In fiscal 1999, Montana counties contributed $13,959,887 of property tax and non-levy revenue to pay for human service programs at the Department of Public Health and Human Services. The nine-mill levy from the thirteen state assumed counties contributed $8,072,360. The non-assumed counties contributed a total of $5,887,527. The total cost for these programs in fiscal 1999, including all county and state federal funds, was $88,833.369.

Table 21 shows the nine-mill levy property tax and related non-levy revenues for the state assumed counties.

**Table 21**
**Assumed Counties**
**Property Tax and Non-Levy Revenue**
**Fiscal 1999**

| County | Total Revenue |
|---|---|
| Cascade | $ 1,174,624 |
| Deer Lodge | 103,749 |
| Flathead | 1,726,181 |
| Glacier | 198,074 |
| Lake | 493,712 |
| Lewis & Clark | 906,603 |
| Lincoln | 323,379 |
| Mineral | 91,837 |
| Missoula | 1,536,852 |
| Park | 267,121 |
| Powell | 137,567 |
| Ravalli | 552,859 |
| Silver Bow | 559,801 |
| **Total** | **$ 8,072,360** |

Table 22 shows the property tax and non-levy revenue collected by the non-assumed counties.

**Table 22**
**Non-Assumed Counties**
**Property Tax and Non-Levy Revenue Fiscal 1999**

| County | Revenue | County | Revenue |
|---|---|---|---|
| Beaverhead | $ 106,257 | McCone | $ 20,736 |
| Big Horn | 265,623 | Meagher | 22,974 |
| Blaine | 178,053 | Musselshell | 104,957 |
| Broadwater | 61,439 | Petroleum | 1,554 |
| Carbon | 122,902 | Phillips | 99,152 |
| Carter | 18,425 | Pondera | 104,249 |
| Chouteau | 61,738 | Powder River | 16,534 |
| Custer | 153,856 | Prairie | 20,001 |
| Daniels | 28,508 | Richland | 153,847 |
| Dawson | 95,390 | Roosevelt | 247,875 |
| Fallon | 53,895 | Rosebud | 201,924 |
| Fergus | 235,788 | Sanders | 146,881 |
| Gallatin | 310,161 | Sheridan | 50,825 |
| Garfield | 16,485 | Stillwater | 76,729 |
| Golden Valley | 10,702 | Sweet Grass | 38,605 |
| Granite | 29,271 | Teton | 69,518 |
| Hill | 326,803 | Toole | 68,572 |
| Jefferson | 68,394 | Treasure | 13,566 |
| Judith Basin | 24,601 | Valley | 158,863 |
| Liberty | 16,622 | Wheatland | 35,150 |
| Madison | 59,983 | Wibeaux | 17,016 |
| | | Yellowstone | 1,973,101 |
| | | **TOTAL** | **$ 5,887,527** |

## General Fund Request

The Department of Public Health and Human Services has requested that this committee endorse the replacement of local property tax funds used by the Department for Health and Human Services with state general fund. The reasons for this recommendation were:

1. Using general fund creates a more predictable and understandable revenue source for human services.

2. Human service programs are mostly federal programs administered by state employees. Since few of the rules or financial decisions are local in nature, the use of locally generated revenues does not seem appropriate.

3. The current statutory provisions addressing the county role in financing these services will sunset at the end of this biennium.

4. Growing proportions of administrative costs are associated with state computer systems and centralized management of block grants. These administrative costs are difficult to allocate to individual counties in a fair and equitable manner.

For these reasons, the department requested this committee endorse the replacement of property tax revenues with general fund. We believe the funding issue could be resolved in the larger context of the realignment of local and state funding sources. In this larger context, this change would be part of a "cost neutral" improvement in state/local financial relationships.

This change would result in an understandable, predictable and fair method of financing human services.

Of the $14 million dollars, 84% or $11.8 million is property tax revenue and about 16% or $2.2 million is non-levy revenue. These complicated non-mill levy revenue distributions may be eliminated under other proposals the committee is considering. These other proposals would deposit the $2.2 million of non-levy revenue directly into the general fund. Therefore, considering the other proposals, the actual general fund necessary to replace the property tax revenue is $11.8 million.

The committee accepted this recommendation and has included in its proposed legislation to fund public assistance through the state general fund. Language in the legislation removes references to the poor fund and the processes used by counties to reimburse the state for public assistance costs.

**Other Changes**

In addition to these general changes, other specific language is included to maintain certain desirable features.

Specifically:

7-34-2204(2)(c) Language is added to allow this activity where counties voluntarily provide additional matching funds to the Department to increase the availability of Medicaid funding for health care and health care facilities. This provision is included to allow this activity and does not obligate counties in any way.

41-3-1122(2)(3)(4)(5) Foster care language - Currently when youth in the custody of the State (Department of Public Health and Human Services or Department of Corrections) are placed in an out-of-home setting (foster home, youth care facility). The State makes those payments. The State then presents a bill to the youth's county of residence for up to one-half the cost of the placement. These costs are currently capped at the 1987 foster care spending level in each of the non-assumed counties. The legislation repeals this language. Foster care costs will become the responsibility of the Department and State general fund will replace county funding.

53-2-207 This general provision directs the State to require counties to pay whatever local contribution is required to access State or Federal public assistance funds. The language will no longer be necessary since "local" funds will not be used for the matching funds required by many Federal programs.

53-2-801 This language sets out the provisions of state assumption of public assistance financing. The proposed legislation removes the requirement for a poor fund. It also removes the distinction between assumed and non-assumed counties. Language is included which clarifies that counties may continue to provide services to indigent people using local funds. Currently a number of counties use their own resources to provide general relief, medical assistance and burial costs to residents not eligible for State or Federal assistance. This recognition of local discretion in providing additional assistance beyond the State operated programs is restated at 53-3-115(3)(b) and 53-3-116. The term "poor fund" is being removed from those sections.

## STATE IMPACT

The committee recommendations impact the state by: (1) increasing the state revenues through depositing into the state general fund all motor vehicle taxes and fees, gaming revenue, district court fees, financial institution tax, alcohol-related taxes, miscellaneous taxes and fees; (2) discontinuing the property tax reimbursement programs; (3) transferring the county financial obligations for welfare and district courts, excluding the clerk of district courts to the state general fund; (4) increased general fund appropriations to state agencies and schools; (5) funding the Entitlement Share payments for local governments; and (5) some administrative expenses for state government. This chapter examines the net effect on state funds of all the committee's financial recommendations.

### Increased General Fund Revenue

Table 23 shows the increase in state revenue from the funding changes recommended by the committee. Based on estimated fiscal 2001 numbers, there is a $200 million increase in state revenue. The estimated revenue will decrease 0.53% to $199 million for fiscal 2002, and grow 1.2% to $201 million in fiscal 2003.

**Table 23**
**Impacts of Proposed Funding Shifts on State Government**

| | Impact on State Government | | |
|---|---|---|---|
| **Revenue Impacts** | **FY01** | **FY02** | **FY03** |
| Personal Property Reimbursements | 76,035,161 | 73,389,886 | 70,744,611 |
| MV - District Court 10% | 6,213,877 | 6,307,085 | 6,401,691 |
| MV - All Other | 73,103,431 | 74,199,982 | 75,312,982 |
| Gaming Revenue | 27,777,641 | 28,083,142 | 31,827,971 |
| District Court Fees | 1,906,941 | 1,906,941 | 1,906,941 |
| Financial Institutions Tax | 8,397,202 | 8,397,202 | 8,397,202 |
| Federal Payments | 116,782 | 116,782 | 116,782 |
| Alcohol-Related Taxes | 4,023,803 | 4,116,407 | 4,213,185 |
| All Other Impacts | 2,386,347 | 2,386,347 | 2,386,347 |
| **Total Revenue Impacts** | **199,961,185** | **198,903,775** | **201,307,713** |

The personal property reimbursements are based on SB184 payments to local governments, excluding fiscal 2001 payments to Billings, Sunburst, and the Butte TIF, plus HB20 and SB417 reimbursements for fiscal years 2001 through 2003. The reimbursements decrease each year because the HB20 and SB417 reimbursements decrease 10% each year under current law.

Motor vehicle revenue impacts in fiscal 2001 are based, in part, on the Legislative Fiscal Division's analysis of the impacts of HB540; and on the Department of Justice motor vehicle database for tax year 1998. Revenues reflect increases of $900,000 related to the streamlined registration and title fees for light cars and trucks, and an additional $900,000 for additional revenue from the HB540 flat fees on Native American vehicles. Motor vehicle revenues also reflect an assumed growth rate of 1.5% that reflects the long-term growth in the number of motor vehicles registered.

Gaming revenues have a growth rate of 1% in fiscal 2002 and 13% in fiscal 2003. These unusual growth rates reflect implementation activities of the automated accounting revenue system (AARS). Historically this revenue source fluctuates. Since 1990 gambling revenues have been increasing at a declining growth rate. In fiscal 2002 there is an estimated decrease of $1.4 million in revenue to local governments due to AARS. In fiscal 2003 there is an estimated increase of $445,000 in revenue to local governments due to AARS.

Alcohol-related taxes grow 2.30% in fiscal 2002 and 2.35% in fiscal 2003. This growth rate is based on beer, wine and liquor historical growth rates per capita.

All the other revenue sources are held constant with no growth because these revenues fluctuate both up and down over time and do not have any long term stable growth patterns.

### Expenditure Impacts

The state expenditures will increase $199.8 million in fiscal 2002 and $200.3 million in fiscal 2003 as shown in Table 24. The increases are for welfare, district courts, entitlement share payments, schools, and administration expenses.

**Table 24**
**State Expenditure Impact**

| | Base | Increased G.F. Expenditures | |
|---|---|---|---|
| **Expenditure Impacts** | **FY01** | **FY02** | **FY03** |
| State Funded Welfare | (13,959,884) | (13,959,884) | (13,959,884) |
| State Funded District Courts | (20,852,499) | (21,471,564) | (22,108,639) |
| Entitlement Share | | | |
| Counties | (35,200,740) | (36,323,183) | (37,450,163) |
| Cities | (43,991,267) | (45,394,012) | (46,802,429) |
| TIF's | (4,776,051) | (4,776,051) | (4,776,051) |
| Schools K-12 | (64,950,619) | (64,950,619) | (64,950,619) |
| County Retirement | (13,049,782) | (10,419,699) | (7,798,815) |
| County Transportation | (2,280,341) | (2,265,148) | (2,240,756) |
| Administration | N/A | (219,000) | (167,000) |
| **Total Expenditure Impacts** | **(199,061,183)** | **(199,779,160)** | **(200,254,356)** |

The expenditure changes for welfare and district courts are explained in their own chapters. The entitlement share program grows 3.2% in fiscal 2002 and 3.1% in fiscal 2003 as calculated according to the committee's recommended growth rate. The administrative expenses are for:

- The Department of Commerce to perform about 20 selected audits each year on taxing jurisdictions not covered by the standard audit requirements and to develop a Montana specific compliance audit supplement. The basis for selecting these audits is to be requests, concerns about proper accounting in the district, random selection, and other criteria as established by the department. This audit supplement is to be required as part of the regular audit of local governments. The supplement is to be developed in conjunction with the Legislative Auditor's Office, the Office of Budget and Program Planning, and the Department of Administration. This estimated to cost $157,000 in fiscal 2002 and $105,000 in fiscal 2003.

- The Legislative Services Division to pay for the operational costs of the State and Local Government Relationship Committee. This is estimated to cost $124,000 for the 2003 biennium.

### Net Impact to the State

Table 25 shows that expenditures exceed revenue by $0.875 million in fiscal 2002 and in fiscal 2003 revenues exceed expenditures by $1.053 million. For the biennium, revenues exceed expenditures by a total of $0.178 million.

**Table 25**
**Impact to State**
**Based on Committee Recommendations**

| Category | Fiscal 2002 | Fiscal 2003 | Biennium |
|---|---|---|---|
| Revenue | $ 198,903,775 | $ 201,307,713 | $ 400,211,489 |
| Expenses | (199,779,160) | (200,254,356) | (400,033,516) |
| **Net Change** | **$ (875,385)** | **$ 1,053,358** | **$ 177,973** |

## BUDGETING AND ACCOUNTING LAWS

The committee recommends revising the local government budgeting and accounting laws. During the course of reviewing local government financial information, the committee learned that the current statutes did not ensure that the legislature and state departments received uniform information from local governments. This resulted in additional committee work and time and hindered the committee's study of streamlining revenues and shifting a portion of district court costs to the state.

Due to the complexity and multitude of statutes pertaining to local government budgeting and accounting, the committee established a work group to review the pertinent sections of law to determine if these sections could be simplified or clarified to improve reporting to the applicable state departments and legislature. The work group reviewed over 80 sections of state law and found that the statutes contain a large amount of redundant and contradictory laws with micro-management provisions that actually hinder local government efficiency and state oversight of local government activity.

In 1995, the legislature adopted Part 6 "Local Government Alternative Accounting Method" in Title 7, Chapter 6 of Montana Code Annotated to "create a uniform accounting method for local governments that provides an alternative to following the detailed bookkeeping rules contained in this title that have been built up over decades and to encourage local governments to adopt generally accepted accounting principles and auditing standards." The outcome of Part 6 had just the opposite effect and actually further complicated local government accounting and budgeting laws. Of the 56 counties and the 127 cities and towns in Montana, only four local governments adopted the "alternative accounting method."

The committee recommends following through on the intent of the "alternative accounting method" adopted in 1995 by simplifying the laws relating to local government budgeting and accounting. The major revisions recommended include:

1. An all-inclusive definition of "local governments" subject to the budgeting and accounting provisions, excluding only schools as they are subject to rules promulgated by the Office of Public Instruction.
2. Elimination of detailed accounting provisions in statute by referring to the existing duty of the Department of Commerce to prescribe accounting systems in accordance with generally accepted accounting principles.
3. Specifically states that it "...does **not** provide for the consolidation or reassignment of any duties of elected county officials" and it incorporates existing duties of county officials.
4. Provides for the county or municipal treasurers to be the custodian of all public money, defines public money and specifically prohibits separate bank accounts unless authorized by the county or municipal governing body.

5. Creates budget adjustment flexibility for some fund types and fee-based budgets, similar to that given to state departments.
6. Provides for all mill levies to be subject to county or municipal governing board approval.
7. Provides for an extended deadline for setting tax levies if certified tax levies are received late.
8. Deletes the reference to the "alternative accounting method," and amends or repeals over 80 sections of existing county and municipal laws. Many of the revisions are simply due to changes in accounting procedures due to the elimination of manual accounting systems and procedures.

The proposed budgeting and accounting laws clearly set forth the necessary requirements to ensure state oversight, public participation and conformity with generally accepted accounting principles for all local governments. As many of the redundant and contradictory provisions are eliminated in the proposed revisions, the legislature has greater assurance of compliance by local governments. These revisions also provide for uniform reporting, without exception, to the Department of Commerce to ensure that the various state agencies, legislature, and committees have the necessary information on which to base policy and fiscal decisions.

The county and municipal governments are given greater control and flexibility to make decisions based on what is best for their own particular governmental unit. For example, the old statute authorizing petty cash funds for county government specified that the petty cash fund would be set at $1,000. The recommended revision simply authorizes the establishment of a petty cash fund with the specific dollar amount to be established by the local government based on their own needs. The accounting procedures require compliance with generally accepted accounting principles that include adequate internal control systems to safeguard local government assets. The accounting and budgeting provisions are all subject to an independent financial and compliance audit pursuant to state law.

The special purpose districts and entities will have the most significant impact as they will now come under the same accounting and budgeting provisions as counties and cities and towns per the committee's recommendation to have an all inclusive definition of "local government." For 1998, the Department of Commerce documented 753 special districts and entities. Of these 753 special purpose districts, 103 districts used a fiscal year ending date other than June 30. The committee is recommending all local governments use the June 30 fiscal year ending date. Additionally, these special purpose districts will now be subject to new accounting and budgeting provisions. New financial reporting and budgeting forms will have to be developed and appropriate accounting and budgeting training provided to these special purpose districts to fulfill the committee's recommendations. The committee believes it is important to bring all local governments under the same reporting standards to ensure complete and accurate accounting to the legislature, state agencies, related local governments, and the public. The committee looked extensively at the principal of "be accountable and hold accountable" and believe that additional oversight by the city or county government, as proposed by the committee, is necessary as less than 10% of the special purpose districts are large enough to require a financial and compliance audit under state law. As it will take a longer period to apply the accounting and budgeting provisions to the special purpose districts, the committee recommends delaying the effective date of the proposed legislation for the special purpose districts by one year.

## MANDATE GUIDELINES

The issue of mandates has been, and continues to be, one of the more enduring sources of friction between levels of government. Unfortunately, a solution to the mandate issue, that meets everyone's needs, has not been identified. The committee makes the following recommendations to establish a procedure on how service mandates are enacted, modified or terminated in law. State mandates must be funded, and to clarify, property tax cannot be used to fund state mandates.

### Statement of Intent to Establish a Mandate

In order to prevent the proliferation of undue or unnecessary mandates, the Advisory Commission on Intergovernmental Relations (ACIR) has suggested a "policy of deliberate constraint" to guide state in evaluating current and proposed mandates. The committee recommends a policy to put this into effect.

The committee recommends that any legislation, which seeks to establish a mandate under Section 1-2-112, MCA, must be accompanied by a statement of intent. The statement of intent must identify:

a. The public purpose to be accomplished by the mandate;
b. The statewide interest the mandate is intended to address;
c. The additional costs local governments may incur; and
d. How the proposed mandate is a sharing of responsibilities between the state and local governments.

### Establishing a Review Process for Existing and Future State Mandates

It is the committee intent to establish criteria for the review and evaluation of state mandates to ensure that state mandates:

1. Serve a statewide public purpose if funded by state reimbursement or property tax;
2. Reflect present needs and legislative priorities; and
3. Terminate when they are no longer necessary or appropriate.

The new committee, State and Local Government Relationship Committee, is to review and evaluate state mandates to determine whether:

a. The mandate fulfills a continuing, legislatively recognized statewide public purpose;
b. The mandate is a logical sharing of responsibilities between state and local governments;
c. The mandate is necessary for the operation of local governments or serves a statewide public purpose;
d. The mandate benefits particular local government jurisdictions; and

e. Local governments incur additional costs as a result of the mandate and are the amount of additional costs.

The committee is to establish procedures to facilitate a biennial review and evaluation of state mandates, and report a summary of findings to the legislature. This summary of findings can include a recommendation for termination, extension or modification of a state mandate.

**Clarifying What State Mandates Must be Funded by the Legislature**

The committee recommends that the mandates which the legislature must fund under Section 1-2-112(1), MCA are those mandates legislatively imposed requirements, which are not necessary for the operation of local governments. However, mandates provide a valuable service or benefit to Montana citizens, including but not limited to:

a. Entitlement mandates which provide that certain classes of citizens may receive a specific benefit;
b. Membership mandates which require local governments to join specific organizations, such as waste districts or a national organization of regulators; and
c. Service level mandates requiring local governments to meet certain minimum standards.

Section 1-2-112(1), MCA requires the legislature must provide a means to finance the activity, service or facility other than mill levies or the all-purpose mill levy. This applies to laws enacted by the legislature that requires a local government unit to perform an activity or provide a service or facility that requires the direct expenditure of additional funds. It is not expected of local governments in the scope of their usual operation.

**Funding of State Mandates**

The committee recommends clearing up confusion in the law about whether property tax can be used to fund mandates. The committee recommends that state mandates cannot be funded with property taxes except in de minimis situations, or if the mandate is necessary to implement the national voter registration act of 1993.

## EARMARKED REVENUE GUIDELINES

The committee de-earmarked revenue and simplified the collection and distribution of many revenue sources. There are more funds that could be de-earmarked and program advocates attempt to have future legislation enacted to earmark funds to a particular program. Therefore, the committee recommends guidelines for the earmarking of funds to local government and a review process for such earmarking.

The committee defined earmarking revenue as a state administrative or legislative action that allocates the revenue from a tax, fee, assessment or other source to a local government. The defined general revenue source means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

### Revenue Earmarking Guidelines

The committee recommends a revenue may be earmarked for a specific purpose when 1) one or more of the following conditions are met and 2) there is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

a. The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee or assessment. Also, the tax, fee or assessment is commensurate with the costs of the program or activity.

b. The entire cost of the activity is paid by the beneficiary. The tax, fee or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

c. There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

d. There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

The committee recommends the following additional procedures. In the consideration of the general appropriations act for each biennium, the legislature shall determine the appropriateness of earmarking revenue. The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the earmarking of revenue.

**Review of dedicated revenue provisions**

The committee recommends that each interim, the Legislative Finance Committee review earmarked revenues based the above guidelines. The committee recommends that an earmarking of revenue should not give a local government an unfair advantage for funding; the expenditures from earmarked revenue must be based on requirements for meeting a legislatively established outcome; statutorily mandated programs or activities funded through earmarked revenues provided from general revenue sources must be reviewed to the same extent as other programs or activities funded from the general fund; and the use of a revenue earmarking may be appropriate if it satisfies one or more of the following:

a. The program or activity funded provides direct benefits for those who pay the dedicated tax, fee or assessment. Also, the tax, fee or assessment is commensurate with the costs of the program or activity.

b. The use of the earmarked revenue provision provides special information or other advantages that could not be obtained without earmarking.

c. The revenue earmarking involves collection and allocation formulas that are appropriate to the present circumstances and current priorities of local and state government.

d. The revenue earmarking does not impair the legislature's ability to scrutinize budgets, control expenditures and establish priorities for state spending.

e. The revenue earmarking results in an appropriate projected ending fund balance.

f. The revenue earmarking fulfills a continuing need recognized by both local government and the legislature.

g. The earmarking of revenue provision does not result in accounting or auditing inefficiency.

The Legislative Finance Committee should establish procedures to facilitate a biennial review and evaluation of revenue earmarking and report a summary of its findings to the legislature, including its recommendation of termination or extension, with or without modification, of the earmarking of revenues.

## ELIMINATION OF SPECIFIC MILL LEVY CAPS AND FEE RATES

The committee recommends eliminating the mill-levy based funding caps and specific fee rates set in law. The mill levy caps are replaced with a county or city property tax limit. The committee recommends that the county and city commissioners have clear oversight authority and final budget control on the mills levied and fees established for all miscellaneous and special districts.

### Mill Levy Caps

The committee recommends that all references to dollar limits as well as mill limits be removed from law, except for the statewide 95-mill levy for K-12 education, the 6-mill levy for the university system, and the 1½ mill levy for the vo-tech centers. The committee's intent is to have a section of law that lists the purposes for which county or city commissioners can levy property taxes, including a phrase for all other programs so the commissioners authority to levy property tax is as broad as possible. All other mill levy limits are to be repealed.

A uniform election procedure is to be established for authorizing a voted mill levy or exceeding the mill levy limit. The uniform election procedure is to be the I-105 election procedure. The time limit on voted mills is to be specified in the election rather than in the statute. The uniform election procedure also applies to cities and towns.

### Specific Fee Rates

The accounting and budgeting laws changes recommended by the committee give local government the budget flexibility to have a fully functional proprietary fund, including both enterprise and internal service funds. The law also establishes a budget process to set fees and control costs. This process is similar to the state law enacted in 1995. There were four criteria to consider in the construction of this legislation:

1. There should be a connection between the fee and the cost of providing the service.
2. There should be public involvement.
3. There should be budget safeguards for cost increases or fund balance accumulation.
4. There should be a link between the fee setting process and the budget process.

With the proprietary fund and the budget process and criteria to review fees, the committee recommends removing the dollar specific fees that are in state law. There would be an exception for fees that need to be uniform statewide. Due to lack of time for committee review, caution was used when drafting the bill. Many fees with specific rates that have some basis for being uniform statewide were not changed. One fee that was changed, from a set dollar amount to a fee established by the local government, is the mosquito district control fee in Section 7-22-2432, MCA. In the code search it became apparent that some state fees utilized by local government are set by administrative rule rather than being in the law.

## PROPERTY TAX LIMIT

The committee recommends revising the property tax limit in SB184. As the funding flows have been simplified, the reimbursement programs eliminated, and the accounting and budget laws modified to allow greater control and flexibility for local governments, the property tax limit needs to be adjusted also. The committee improves and clarifies the definition of "newly taxable property", and makes a transitional property tax limit for fiscal 2002 and an on-going property tax limit.

The definition of newly taxable property needs to be revised in order to eliminate ambiguities and inconsistencies in administering the current definition. The transitional property tax limit is designed to ensure that local governments will not be harmed in the process of moving from the current revenue and fee system to the distribution of revenue system recommended by the committee. The on-going property tax limitation is provided to simplify the current limit and facilitate administration of tax laws for both state and local governments.

### Newly Taxable Property

Newly taxable property would be limited to:

- Annexation of real property and improvements into a taxing unit;
- Construction, expansion, or remodeling of improvements;
- Transfer of property into a taxing unit;
- Subdivision of real property; and
- Transfer of property from tax-exempt to taxable status.

Two other components of newly taxable property provided for in SB184 have been deleted from the definition of newly taxable property.

1) The reclassification of property, and
2) Reevaluations caused by expansion, addition, replacement or remodeling of improvements, Reevaluations caused by expansion, addition, replacement or remodeling of improvements are already covered by one of the five items listed above.

Allowing newly taxable property to include property that has simply been reclassified often results in grossly overstating newly taxable property in situations not intended by the normal course of economic growth. For example, to address the tax effects of deregulation of the electric energy and telecommunications industries, the 1999 legislature created a new class 13 and transferred all electric energy generation and telecommunications property to this class. It is unlikely that the legislature also intended reclassifications of this nature to be included and counted as "newly taxable property", when in fact there is nothing "new" about the property or its use.

Two clarifications are added. The transfer of property into a taxing unit would exclude the reduction in the boundary of or the termination of a tax increment financing district (TIF). Subdivision was clarified to provide for the taxation of the increase in value as newly taxable property in the first year that the property is included in class 4.

### Transitional Limit

For fiscal 2002, each local government is allowed to impose a levy that brings in revenue from property tax and the Entitlement Share payment that is not less than the base amount plus a growth factor. The "base amount" is:

- The fiscal 2001 property tax revenue, which includes revenue from property that was newly taxable property in fiscal 2001; plus,
- The net change in revenue from the enumerated revenue sources which were changed in the committee's recommendations (motor vehicle, etc.); minus,
- The amount of funds sent to the Department of Health and Human Services for welfare in fiscal 2001 and the fiscal 2001 district court expenditure, excluding the clerk of district courts and their staff's salaries and benefits.

The transitional property tax cap for fiscal 2002 includes two growth rate options. County and city governments can use whichever results in the greatest fiscal 2002 revenue for the county or city government.

<u>Option 1:</u> Property taxes may be assessed in fiscal 2002, sufficient for the county or city government to have a 2% growth rate, when property taxes are combined with the Entitlement Share received, for the total of all property taxes assessed for fiscal 2001, plus the net change in other revenues and expenses as altered by the committee.

<u>Option 2</u>: Property taxes may be assessed in fiscal 2002 using the same mill levy as applied in fiscal 2001 against the total taxable value of all property. Local governments could use this option if it gave them more revenue than Option 1.

### Property Tax Limit – Fiscal 2003 and Beyond

For fiscal 2003 and beyond, the property tax limit would simply be the fiscal 2002 amount of property tax assessed, plus a growth factor. Limiting the property tax calculation to the property tax base would greatly simplify the calculation. The mill levy limit would be based on current year total taxable value less the taxable value of "newly taxable property". However, the mill levy would be applied to all taxable value, including newly taxable property.

The growth rate for the property tax limit is the base year (fiscal 2002) amount of property taxes assessed plus ½ of the last three-year average rate of inflation. This growth rate sets the maximum amount of property tax that can be raised from the total taxable value net of newly taxable property regardless of whether the maximum amount of mill levy capacity is used each year.

The committee modified the property tax limit to provide county and city officials the flexibility to be prudent and not have the current incentive to levy the maximum number of mills each year. Under current law, the maximum number of mills allowed must be levied each year or the governments property tax cap will be decreased in the future. This modification will allow local governments not to levy the maximum mills allowed under law each year, while allowing local governments to retain the ability to levy the maximum number of mills in future years, if the maximum number of mills are needed.

Due to the complexity and constant change in property tax laws, the Tax Increment District (TIF) law to adjust the base taxable value of a TIF following a change of law had to be adjusted. Section 7-15-4293, MCA, reads as follows:

> **7-15-4293. Adjustment of base taxable value following change of law.** If the base taxable value of an urban renewal area or an industrial district is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the governing body of the municipality may request the department of revenue or its agents <u>to calculate the base taxable value as it would have been on the date of the original determination had the change been in effect on that date</u>. The governing body may adjust the base taxable value to that value reported by the department of revenue, under the provisions of 7-15-4287. *(emphasis added)*

This statute was first enacted in 1979 to protect TIFs from a potential reduction in their increments. In 1979, legislation was proposed to eliminate the bank shares tax and exempt banks from taxation. Because the bank shares tax was part of the original base taxable value of TIFs, the removal of banks from the current incremental value could have caused a reduction in TIF revenue and placed TIF bonds in jeopardy. Thus, in 1979, the statute was designed to protect TIFs from legislative acts that may erode their incremental value. If new legislation reduces the tax increment, a municipality may ask the Department of Revenue to recalculate the base value as if the new legislation was in affect at the time the base value was originally determined. It is impossible to calculate the tax base, as it would have been under the prior year's laws. Therefore, the underlined provision in law was changed to allow the Department of Revenue "to estimate the base taxable value, so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as they come due."

**Exceptions to the Property Tax Limit**

There are some property tax levies that are not included in the property tax limits. These are judgement levies, emergency levies, and certain emergency debt levies. These levies would be allowed, but could never become part of the property tax base for calculating the property tax limit.

## COMMITTEES

The Local Government Funding and Structure Committee recommends a State and Local Government Relationship Committee be created and the Legislative Finance Committee duties be expanded. It is recommended that a State and Local Government Relationship Committee be placed within the Legislative Services Division as a four-year interim committee of the Legislature. It is recommended that for the 2003 biennium the committee develop a long-term Entitlement Share allocation method.

### State and Local Government Relationship Committee

It is recommended that a four-year interim committee in the Legislative Services Division be created. The committee should operate similar to the Environmental Quality Council for state and local government issues. The Local Government Funding and Structure Committee found considerable value in working together with non-legislators to discuss issues and come to consensus on a solution, which would work for Montana citizens and governments. The challenges for local government are frequently intertwined with state laws and policies. Based upon the success of the Environment Quality Council and this interim SB184 committee, it appears that many issues can be resolved by bringing knowledgeable people together who understand citizen concerns, state interests and local government.

The membership of the new committee is recommended to be:

- Four members of the Senate, from different political parties, appointed by the committee on committees;
- Four members of the House of Representatives, from different political parties, appointed by the Speaker of the House;
- Three representatives of county government appointed by the governor;
- Two representatives of cities and towns appointed by the governor;
- One representative of K-12 Education appointed by the governor;
- One representative of the Department of Commerce, ex officio nonvoting, appointed by the governor; and
- One representative of the Department of Revenue, ex officio, nonvoting, appointed by the governor.

The Montana Association of Counties and the Montana League of Cities and Towns, the Montana School Boards Association and the Rural Education Association may submit recommendations to the governor for the appointment of individuals representing each entity's area of expertise on the committee.

The purposes of the committee are to:

- Promote and strengthen local government through recognition of the principle that strong communities, with effective, democratic governmental institutions, are one of the best assurances of a strong Montana;
- Bring together representatives of state and local government for consideration of common problems;
- Provide a forum for discussing state oversight of local functions, realistic local autonomy, and intergovernmental cooperation;
- Identify and promote the most desirable allocation of state and local government functions, responsibilities, and revenue;
- Promote concise, consistent, and uniform regulation for local government;
- Coordinate and simplify laws, rules, and administrative practices in order to achieve more orderly and less competitive fiscal and administrative relationships between and among state and local governments;
- Review state mandates to local governments that are subject to 1-2-112, MCA and 1-2-114 through 1-2-116, MCA;
- Conduct interim studies as assigned;
- Make recommendations to the legislature, executive branch agencies, and local governing bodies concerning:
  a. Changes in statutes, rules, ordinances, and resolutions that will provide concise, consistent, and uniform guidance and regulations for local government;
  b. Changes in tax laws that will achieve more orderly and less competitive fiscal relationships between levels of government;
  c. Methods of coordinating and simplifying competitive practices to achieve more orderly administrative relationships among levels of government; and
  d. Training programs and technical assistance for local government officers and employees that will promote effectiveness and efficiency in local government.

The Local Government Funding and Structure Committee reviewed two reports from outside the scope of the committee's work. The issues in these reports need to be addressed, and require considerable effort to develop appropriate solutions. The issues in these two reports are recommended to be studied by this committee in the 2003 biennium. The reports are:

- Tax Increment Financing Districts (TIF) by Brad Simshaw, April 14, 2000
- Property Tax Administration Challenges by Dolores Cooney and Brad Simshaw, August 28, 2000

In addition to the reports mentioned above which deal with property tax, the committee discussed concerns that local government has with other issues such as transportation, health, land, welfare, and building inspection. The local government officials expressed a strong interest in having a committee to focus the attention on these issues and to have local government officials and legislators working together with the assistance of the executive branch on potential solutions.

**Long-Term Entitlement Share Allocation – Committee's Top Priority**

The Local Government Funding and Structure Committee allocated the Entitlement Share to local governments in a method that maintains the approximate fiscal 2001 status quo revenue base. A law based on a point in time is soon outdated and does not reflect the economy or social changes that occur in the state. As such, the short-term Entitlement Share allocation method may be regarded as a short-term allocation method, which will work for two to four years.

Long-term options may include funding mechanisms that take other factors into consideration. However, time was not available to explore other allocation methods this biennium.

During the course of analyzing current local government funding, it was observed that there is a tremendous disparity in the number of mills being levied on Montana taxpayers depending on the location of the taxpayer's property. For example, in tax year 1999 the number of mills levied on residential homeowners for the city of Colstrip totaled 13.3 mills, whereas the number of mills levied on residential homeowners for the city of Westby totaled 407.08 mills. To put perspective on how low and high these particular mill levies are, on average cities and towns levied 103 mills in 1999.

This wide disparity in mill levies raises public policy issues regarding the fairness and equality of taxation across municipalities and counties. We had hoped to be able to conduct an analysis that would provide insight into the current range or dispersion of mill levies across municipalities, and then show how the proposed revenue distribution scheme either increased or decreased the disparity in mill levies. Time constraints precluded any meaningful analysis in this area.

However, in the case of Colstrip and Westby, it is very clear that one major reason for the difference in the number of mills needed to support municipal services lies in the tax base available to the governing bodies of these two communities. Table 26 provides a comparison of property tax-related data for Colstrip, Westby and Polson, with the latter being representative of the "average" city or town.

Table 26 shows in tax year 1999, Colstrip had a taxable valuation of $150,665,736 and levied 13.3 mills that generated $2,003,854 in taxes. Westby, on the other hand, had a taxable valuation of $87,782 and levied 407.08 mills that generated $35,734 in taxes. Polson, representing the average, had a taxable valuation of $4,793,716 and levied 91.6 mills that generated $439,104 in taxes.

On a per capita basis, the governing body of Colstrip has $74,183 in taxable valuation available. Every mill levied generates $74.18 for every man, woman and child in the town. Levying 13.3 mills provides $986.63 in revenue per capita.

In Westby, the governing body has $387 in taxable valuation available per capita, which translates into 39¢ per mill per person. Even at a levy of 407.08 mills the town generates only $157.42 in revenue per person. In order to generate revenue equivalent to Colstrip on a per capita basis, Westby would have to levy a total of 2,550 mills.

Polson has $1,044 in taxable value per person, which generates $1.04 per person per mill levied. At a levy of 91.6 mills, Polson levies $95.60 per capita.

**Table 26**
**Comparison of Colstrip, Polson and Westby Property Tax Base**
**(Tax Year 1999)**

| | COLSTRIP | POLSON | WESTBY |
|---|---|---|---|
| Taxable Valuation | $ 150,665,736 | $ 4,793,716 | $ 87,782 |
| Mill Levy | 13.30 | 91.60 | 407.08 |
| Taxes Levied | $ 2,003,854 | $ 439,104 | $ 35,734 |
| Population | 2,031 | 4,593 | 227 |
| Per Capita: | | | |
| Taxable Value | $ 74,183.03 | $ 1,043.70 | $ 386.70 |
| Mill Value | $ 74.18 | $ 1.04 | $ 0.39 |
| Taxes Levied | $ 986.63 | $ 95.60 | $ 157.42 |

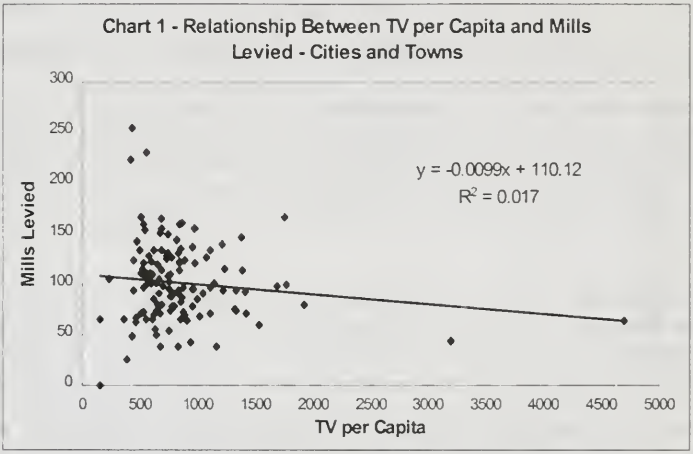
Taxing capacity, measured by taxable valuation per capita, appears to explain the difference in mill levies between towns like Colstrip and Westby. If taxing capacity explains the difference in mill levies across all cities and towns, then any attempts to implement policy proposals designed to increase fairness in taxation across cities and towns could conceivably focus on this one measure alone.

But does taxing capacity explain the differences in mills levied across all cities and towns? To determine this, the statistical tool of regression analysis was used to measure the relationship between mill levies and taxable value per capita. For example, in our analysis we wanted to measure the extent to which variation in taxable value per capita is directly correlated with variation in the number of mills levied. The assumption being tested is that high taxable value per capita will be associated with low mill levies, whereas very low taxable value per capita will be associated with high mill levies.

One of the products of regression analysis is a statistic referred to as the "r-squared" statistic. This statistic can only take a value between zero and one, with the value representing the percentage of variation in one variable being explained by the other variable. For example, if the r-squared statistic is 0.85, this indicates that 85% of the variation in mill levies is explained by variation in taxable value per capita.

In fact, the r-statistic for cities and towns turned out to be 0.036, which says that only about 4% of the variation in mill levies across cities and towns can be explained by differences in taxable value per capita. In essence, there is no relationship between taxable value per capita and mill levies of cities and towns.

This is further illustrated in Chart 1, which provides a graphic representation of the relationship between taxable value per capita and mills levied for all cities and towns.




In Chart 1, the towns of Westby and Colstrip have been removed in order to allow a meaningful visual display of the data.[1] As Chart 1 shows there is no statistical relationship between taxable value per capita and mills levied. If in fact the assumption that mills levied decline as taxable value per capita increases were true, then one would observe the points in Chart 1 generally lined along a diagonal that moves from the upper left point on the chart to the lower right point. However, the points do not form anywhere close to a line, but instead are scattered in a ball shape lending no statistical validity to the assumption that mills are related to taxable value per capita. In fact, when Colstrip and Westby are removed, the statistical relationship becomes worse. Taxable value per capita explains only 1.7% of the variation in mills levied without these two outliers in the equation.

[1] When Colstrip and Westby are included in the chart they are so far from the normal that the remaining cities and towns form an unreadable ball of points on the chart.

If taxable value per capita doesn't explain variation in mills levied, what does? At this time this is unknown. However, there are several possible factors that could contribute to why mill levies vary across cities and towns.

First, municipal governments do not operate on revenue from property taxes alone. They also rely on non-levy revenues. Two cities with the same population and the same tax base could have significantly different mill levies if one of the cities has a very large amount of non-levy revenue while the other city has none. Using taxable value per capita as a measure of local revenue capacity would understate revenue capacity for jurisdictions that have more than average revenue per capita from other sources. In some cases, as with federal payments in lieu of taxes, other revenue sources may be inversely related to a jurisdiction's property tax base.

Second, two cities with the same population, the same tax base, and equal amounts of non-levy revenue could still have significantly different mill levies if preferences for government services were much higher in one city relative to the other.

Third, at any point in time a community may be experiencing a temporary circumstance in which a high voted mill levy is needed to provide funds to address an emergency.

Population and local property tax revenue capacity are relevant to the allocation of funds for local governments, but they probably are not the only relevant factors. Population is one determinant of local government spending needs, but it is not the only one. Local spending may also differ because local circumstances differ. For example, a county with heavy visitor traffic may need to spend more per capita on ambulance services than one with mostly local traffic. Local spending may also differ because people in different jurisdictions make different choices. Residents of one community may vote to pay higher taxes to pay for a public swimming pool while residents of a similar community vote for lower taxes. Another possible reason for local spending variations is differences in local costs.

It appears that the differences in tax burdens between jurisdictions may not be either fair or rational. However, currently time is not available to explore this further and develop or obtain the necessary information to analyze. To provide a long-term, stable and rational basis for allocating revenue for local governments, more work needs to done to provide greater equalization of taxpayers' tax capacity and tax burden across different regions of the state. A future study could provide analysis of which factors would contribute the most to a rational allocation of the Entitlement Share.

Therefore, the state and Local Government Relationship Committee is recommended to determine a long-term allocation method for the Entitlement Share.

**Legislative Finance Committee**

Each interim, the Legislative Finance Committee reviews earmarked state revenues. The Local Government Funding and Structure Committee recommends expanding the Legislative Finance Committee authority to review state administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to a local government.

The Legislative Finance Committee shall establish procedures to facilitate a biennial review and evaluation of revenue earmarking. Upon completion of the review, the committee shall report a summary of its findings to the legislature, including its recommendation of termination or extension, with or without modification, of the earmarking of revenues.

Policy guidelines for earmarking a revenue source are as follows:

a. The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

b. The beneficiary pays the entire cost of the activity, and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

c. There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

d. There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

e. There is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

An earmarking of revenue should not give a local government an unfair advantage for funding. The expenditures from earmarked revenue must be based on requirements for meeting a legislatively established outcome. Statutorily mandated programs or activities funded through earmarked revenues provided from general revenue sources must be reviewed to the same extent as other programs or activities funded from the general fund. The use of a revenue earmarking may be appropriate if it satisfies one or more of the following:

a. The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

b. The use of the earmarked revenue provision provides special information or other advantages that could not be obtained without earmarking.

c. The revenue earmarking involves collection and allocation formulas that are appropriate to the present circumstances and current priorities of local and state government.

d. The revenue earmarking does not impair the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending.

e. The revenue earmarking results in an appropriate projected ending fund balance.

f. The revenue earmarking fulfills a continuing need recognized by both local government and the legislature.

g. The earmarking of revenue provision does not result in accounting or auditing inefficiency.

**Summary**

The Local Government Funding and Structure Committee recommends creating one four-year interim committee in the Legislative Services Division to deal with state and local government relationship issues and an expansion of the Legislative Finance Committee's duties to include reviewing revenue the state earmarks to local government.

# LOCAL OPTION SALES TAX

During the course of its deliberations, the Local Government Funding and Structure Committee concluded its recommendations should include the ability of local governments to levy a local option sales tax. The committee further recommended that the local option sales tax should be structured based on Senate Bill 370, introduced, but not passed, during the 1999 legislative session. This chapter discusses the revenue impacts and administrative features of such a tax.

## Revenue Potential

No one knows how much a local option sales tax would generate in Montana. This is because under the committee recommendations the tax truly is optional; must be approved by the electorate of the taxing jurisdiction; may be levied at varying rates up to 4%; and may have significantly different tax bases across different taxing jurisdictions. This section discusses the potential revenue that could be generated from a local option sales tax that is imposed by all counties, on the same base, at a uniform rate of 4%.

The local option sales tax proposed in SB370 was a tax on luxuries, defined as "any gift item, luxury item, or other item or any service normally sold to the public and to transient visitors or tourists." The only items specifically excluded were "food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life."

It is difficult to determine from this broad language just what a luxury item might be. However, Table 1 shows the revenue that might be generated from such a tax based on the list of "luxuries" included in the table.

Some of the items in Table 1 are self-explanatory; others require some explanation. For example, Montana has a 4% use tax on lodging facilities. The lodging facilities use tax applies only to lodging charges, and excludes other charges for items such as food, transportation or entertainment. Food, drinks and other items sold at lodging facilities could be included in the base for a local option sales tax. Recreation goods and services include things like ski equipment, lift tickets, sporting goods, outfitters services, golf fees, bait, and hobby supplies. Sightseeing fares includes taxi service, charter buses, scenic and sightseeing transportation, and nonscheduled air transportation.

As Table 27 shows, fiscal 2002 sales from these luxury items, including accommodations, is forecast to total $1.87 billion. At a rate of 1%, a local option sales tax levied by **all** counties would generate approximately $18.7 million; at the maximum allowed rate of 4% this tax would generate $74.8 million.

**Table 27**

**Potential Revenue From a Local Option Sales Tax on "Luxuries"**

| Tax Base Item | Forecast FY2002 Sales ($millions) | Revenue at 1% FY2002 ($millions) | Revenue at 4% FY2002 ($millions) |
|---|---|---|---|
| Food Sold in Restaurants | $ 798.1 | $ 8.0 | $ 31.9 |
| Accommodations | 316.6 | 3.2 | 12.7 |
| Drinks Sold in Bars | 182.4 | 1.8 | 7.3 |
| Food, Drinks, and Other Sold at Lodging Facilities | 105.4 | 1.1 | 4 2 |
| Car Rentals | 34.7 | 0.3 | 1.4 |
| Event Tickets | 165.8 | 1.7 | 6.6 |
| Sightseeing Fares | 8.3 | 0.1 | 0.3 |
| Souvenirs | 105.4 | 1.1 | 4.2 |
| Recreation Goods and Services | 153.5 | 1.5 | 6.1 |
| Total | $ 1,870.2 | $ 18.7 | $ 74.8 |

## Who Pays the Local Option Sales Tax

It is estimated that nonresidents would pay approximately 47% of the total tax on items shown in Table 1; Montana residents would pay the remaining 53%. In large part this is because the tax applies to food sold in restaurants and drinks sold in bars. These items account for a little over half of the total revenue from the above tax. However, two-thirds of the sales in these industry sectors are made to Montana residents.

## Revenue Distribution

Underlying the committee's recommendation regarding distribution of the local option sales tax is the notion that regional trade centers should not reap all of the benefit from transactions that occur within their boundaries involving residents of outlying communities.

Based on this, the committee recommends that 25% of all local option sales tax revenue generated within the boundaries of those municipalities or counties designated "regional trade centers" be placed in a common pool. This revenue subsequently would be distributed to those taxing jurisdictions that lie outside the regional trade center, and that are also eligible to receive entitlement share grants from the state general fund. This distribution, administered at the state level, would be based on population. The remaining 75% of total collections from these areas would be distributed based on the formula in SB370.

Counties considered regional trade centers include Cascade, Flathead, Gallatin, Lewis and Clark, Missoula, and Yellowstone. Cities considered regional trade centers include Billings, Bozeman, Great Falls, Helena, Kalispell, and Missoula. The consolidated city-county government of Butte-Silver Bow also would be considered a regional trade center. Regional trade centers that do not levy a local option sales tax would not be eligible to receive distributions from the common pool.

The remaining 75% of all revenue generated within a regional trade center, and all revenue generated by local option sales taxes outside a regional trade center, would be distributed as provided for in SB370. That is, if a county levies a local option sales tax, 50% of the revenue is distributed to municipalities based on the ratio of the population of each municipality to the county population, with the balance retained by the county; and 50% is distributed to municipalities and the county based on the point of origin of the revenue. Subject to the double taxation rules discussed below, municipalities would retain in full any local option sales taxes they levied.

### Double Taxation Rules

Per SB370, a local option sales tax may not be levied on the same transaction by more than one local government. Based on SB370, the committee recommends the following regarding double taxation by taxing jurisdictions:

- If a county levies a local option sales tax prior to any municipality levying a local option sales tax, this automatically precludes municipalities from levying a local option sales tax.
- If a municipality levies first, but the county subsequently levies at a rate equal to or higher than the municipality, then the municipality must repeal its local option sales tax without a vote of the electorate.
- If a municipality levies first, and the county subsequently levies at a rate lower than the municipality, then the municipality is entitled to retain all revenue attributable to the excess of the municipal rate over the county rate, but must remit the balance to the county.

### Property Tax Reduction

SB370 provided that 33% of any revenue from a local option sales tax, whether levied by a county or a municipality, must be used to reduce the countywide property tax levy for the teacher's retirement fund. The committee recommends that the amount of property tax relief, if any, to be provided from a local option sales tax should be left to the discretion of the local governing body and electorate of the taxing jurisdiction levying the tax. This would be spelled out in the resolution of the governing body and posted along with the notice of election on the issue.

## REALTY TRANSFER TAX

The committee recommends a local Realty Transfer Tax. A realty transfer tax, in general, is a tax or fee collected for the transfer of real property from one party to another. The purpose of this tax is to address the lack of up-to-date, effective infrastructure and the means of financing infrastructure.

This report will first examine the infrastructure problem to be addressed by this tax, and then discuss the specific details of the tax.

### Montana's Need for Improved Infrastructure

The lack of means to address infrastructure is a significant problem in Montana's quest to improve itself economically. Water and sewer lines, treatment facilities, roads and storm drainage are all basic needs for economic activity. Economic development cannot take place at the scale needed to provide jobs for the people of the state without an effective way to finance these basic infrastructure needs.

This kind of infrastructure is also necessary for public health and safety. There are communities in Montana whose need for pure drinking water is not assured for the future. While some progress toward meeting these needs has been made by the Treasure State Endowment Program, much more needs to be done.

Presently, the infrastructure to provide water, wastewater treatment and roads is paid through financing mechanisms including special improvement districts, cash financing by developers, "impact fees" collected from developers to pay for the specific impacts of growth, and money provided by the ratepayers through water and sewer rates. These methods are inconsistent from community to community and most of them fall heavily on the developer/builder of new construction or on ratepayer.

There are several problems with the present system that inhibit economic growth in Montana. First, the reconstruction and rehabilitation needs of many local water, sewer and roadway systems are such that local taxpayers and ratepayers could never afford to pay the taxes and rates necessary to bear the cost of the needed work. An accepted "rule of thumb" for resurfacing roads nationally is a 25-year cycle. In many Montana communities, roads and streets are not resurfaced until they crumble completely, making reconstruction necessary, at a much greater cost. Infrastructure maintenance is a "pay now or pay much more later" proposition.

Another problem is that infrastructure costs fall heavily on the developers/builders end of the growth process. Most people agree that new development should pay for itself. However, as new projects are built there are often improvements made to the infrastructure systems as a whole that should be paid for by the overall system because its users are beneficiaries. Presently, these types of improvements are financed by developers and builders through impact fees or by ratepayers through utility rates. This puts the burden on developers/builders and ultimately on the buyers of new construction because either they, or the general ratepayers bear the ultimate cost. This adds to the cost of new construction or increases utility rates, sometimes beyond what users can afford to pay.

### How a Realty Transfer Tax Would Help

Although the realty transfer tax in most states is a general tax used for general governmental services, the committee is proposing that it be used in Montana for replacing or constructing new infrastructure. There are two reasons for this.

First, the state is so far behind in its infrastructure needs that the traditional sources of financing will never allow it to catch up. A new, general source of revenue is needed to allow communities to begin to catch up without increasing the burden on those who now bear it to the full extent that they are able. A realty transfer tax would more evenly distribute the financial burden over a broader base for the communities who adopt it.

Second, requiring a realty transfer tax to be used for infrastructure would ensure that the tax would be used for a purpose that is directly related to its source. In other words, the proceeds of the tax would directly benefit the building and real estate industries by providing a source of funding for the infrastructure that make growth in these industries possible. It seems to the committee that it would be short sighted for these industries to oppose the authorization of such a tax given the positive impact it would have. Fortunately, the general public would benefit as well through better infrastructure for health and safety, and through economic growth produced by a better environment in which business and jobs can flourish.

### Specifics of a Realty Transfer Tax

The realty transfer tax is calculated by applying a fixed rate to the taxable value of the real property being transferred. The realty transfer tax has five fundamental components:

1. Tax base
2. Tax rate and tax election
3. Allocation and use
4. Administration
5. Payment responsibility

The committee recommends a voted local option realty transfer tax for Montana. The tax would be a state tax enacted through legislation. The next sections review the specifics of the tax recommended by the committee.

### Realty Transfer Tax Base

The tax base for a realty transfer tax is defined as consideration paid for the transfer-in-interest of any real property, less exemptions. The amount of consideration paid, for other than a non-arm's length transfer with nominal consideration, is the amount of the full consideration paid. In the case of a non-arm's length transfer, market value of the assets is used to establish the consideration paid. The committee recommends that agricultural land and timberland that has a transfer-in-interest is not subject to the realty transfer tax if its agricultural or timber use is not changed. If the land transfers ownership and it's use is changed, then the transfer is subject to tax.

#### Exemptions

Federal law binds all states and some exemptions are inherent when considering a new form of state tax. The United States or any agency or instrument thereof, any state or territory, any political subdivision thereof, the District of Columbia, and any person or document prohibited by federal law from taxation is exempt from payment of taxes in all states. The exemptions are shown in the following list.

- An instrument recorded prior to the effective date of the legislation
- The sale of agricultural land when the land is used for agricultural purposes
- A transfer solely to provide or release security for a debt or obligation
- The United States, this state, or any instrumentality, agency, or subdivision of the United States or this state
- An instrument that, without added consideration, confirms, corrects, modifies, or supplements a previously recorded instrument
- A transfer pursuant to a court decree or partition
- A transfer pursuant to mergers, consolidations or reorganizations of corporations, partnerships or other business entities
- A transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock
- A transfer of decedents' estates
- A transfer of a gift
- A transfer between husband and wife or parent and child with only nominal actual consideration for the transfer
- An instrument the effect of which is to transfer the property to the same party or parties

- A sale for delinquent taxes or assessments, a sheriff's sale, a bankruptcy action or a mortgage foreclosure
- A transfer made in contemplation of death

**Realty Transfer Tax Rate and Tax Election**

The committee recommends a tax rate up to 1%. The rate of the local option realty transfer tax must be established by an election petition or resolution. The petition or resolution referring to the taxing question must state the tax rate, the duration of the tax, the date the tax becomes effective and the purposes that may be funded by the tax.

A local option tax in excess of a combined total of 1% may not be levied on the same person or transaction by more than one local government. If the electorate of a county approves a local option realty transfer tax, persons or transactions in the municipality are subject to the county tax and the local option realty transfer tax imposed by the municipality if considered reduced to the difference between the 1% and the rate of the county local option realty transfer tax. If the local option realty transfer tax imposed by the municipality is at a lower rate than the tax imposed by the county, the governing body of the municipality shall repeal the tax without a vote of the electorate. A municipality may not enact a local option realty transfer tax if a 1% local option realty transfer tax is in effect in the county within which the municipality lies.

**Allocation and Use of Realty Transfer Tax Proceeds**

The committee recommends that the tax revenue be split between state and local government with 80% of the tax staying with the locality in which the tax is generated. The state portion of the tax is deposited in the Treasure State Endowment state special revenue account provided for in section 17-5-703, MCA.

The realty transfer tax must be used for construction, reconstruction, and maintenance of infrastructure as authorized by the voters. The tax proceeds may be used to pay the principal and interest payments on bonds issued for infrastructure projects. In the drafted legislation infrastructure means:

- Drinking water systems
- Wastewater treatment
- Sanitary sewer or storm sewer systems
- Solid waste disposal and separation systems, including site acquisition, preparation or monitoring

- Streets, roads and bridges
- Parking facilities
- Street lighting
- Public buildings

### Administration of Realty Transfer Tax

The committee recommends the county treasurer collect the tax. A receipt evidencing payment of the tax from the county treasurer would then be required before a realty transfer certificate is recorded and the transfer legally completed.

### Responsibility for Paying the Realty Transfer Tax

The tax is on the person seeking to record the transfer of title to the property. The person has the burden of claiming and demonstrating the right to a tax exemption prior to recording the transfer.

1,000 copies of this public document was published at an estimated cost of $3.45 per copy, for a total of $3,450.00, which includes $2,750.00 for printing and $700.00 for distribution.